

STATE PERSONNEL BOARD CALENDAR



MARCH 8-9, 2005

SACRAMENTO, CALIFORNIA

State of California
Memorandum

DATE: February 25, 2005

TO: ALL INTERESTED PARTIES

FROM: STATE PERSONNEL BOARD - Appeals Division

SUBJECT: Notice and Agenda for the **March 8-9, 2005**, meeting of the State Personnel Board.

PLEASE TAKE NOTICE that on March 8-9, 2005, at the offices of the State Personnel Board, located at 801 Capitol Mall, Room 150, Sacramento, California, the State Personnel Board will hold its regularly scheduled meeting. Pursuant to Government Code section 11123, a teleconference location may be conducted for this meeting at 320 W. 4th Street, Los Angeles, California.

The attached Agenda provides a brief description of each item to be considered and lists the date and approximate time for discussion of the item.

Also noted is whether the item will be considered in closed or public session. Closed sessions are closed to members of the public. All discussions held in public sessions are open to those interested in attending. Interested members of the public who wish to address the Board on a public session item may request the opportunity to do so.

Should you wish to obtain a copy of any of the items considered in the public sessions for the March 8-9, 2005, meeting, please contact staff in the Secretariat's Office, State Personnel Board, 801 Capitol Mall, MS 22, Sacramento, California 95814 or by calling (916) 653-0429 or TDD (916) 654-2360, or the Internet at:
<http://www.spb.ca.gov/calendar.htm>

Should you have any questions regarding this Notice and Agenda, please contact staff in the Secretariat's Office at the address or telephone numbers above.


S. RODRIGUEZ
Secretariat's Office

Attachment



CALIFORNIA STATE PERSONNEL BOARD

801 Capitol Mall • Sacramento, California 95814 • www.spb.ca.gov

ARNOLD SCHWARZENEGGER, Governor



CALIFORNIA STATE PERSONNEL BOARD MEETING¹

801 Capitol Mall
Sacramento, California

Public Session Location – 801 Capitol Mall

Sacramento, California, Room 150

Teleconference – 320 West 4th Street²

Los Angeles, California, Suite 620

Closed Session Location – Room 141

Teleconference – 320 West 4th Street

Los Angeles, California Suite 620

TWO-DAY FULL BOARD MEETING - MARCH 8-9, 2005

¹ Sign Language Interpreter will be provided for Board Meeting upon request - contact Secretariat at (916) 653-0429, or CALNET 453-0429, TDD (916) 654-2360.

²Pursuant to Government Code section 11123, a teleconference location may be conducted for this meeting at 320 West 4th Street, Los Angeles, California.

TWO-DAY FULL BOARD MEETING AGENDA³

DAY ONE - MARCH 8, 2005

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

(9:00 a.m. - 9:30 a.m.)

- 1. ROLL CALL**
- 2. REPORT OF THE EXECUTIVE OFFICER - Floyd D. Shimomura**
- 3. REPORT OF THE CHIEF COUNSEL - Elise Rose**
- 4. PUBLIC EMPLOYEES RETIREMENT SYSTEM (PERS) REPORT**
- 5. NEW BUSINESS**
- 6. REPORT ON LEGISLATION - Sherry Hicks**

The Board may be asked to adopt a position with respect to the bills listed on the legislation memorandum attached hereto.

(9:30 a.m. – 10:00 a.m.)

- 7. PERSONNEL SELECTION ANALYST CERTIFICATE PRESENTATION – George Steinert**

Libby Beall
Diana Figueroa
Deborah Gallegos
Noreen Giron

Cheryl Hernandez
Jeannette Santo
Flariba Shahmirzadi
Dana Watson

(10:00 a.m. - 10:15 a.m.)

CLOSED SESSION OF THE STATE PERSONNEL BOARD

- 8. PENDING LITIGATION**

Conference with legal counsel to confer with and receive advice regarding pending litigation when discussion in open session would be prejudicial.
[Government Code sections 11126(e)(1) and 18653.]

³ The Agenda for the Board can be obtained at the following internet address:
<http://www.spb.ca.gov/calendar.htm>

State Personnel Board v. Department of Personnel Administration,
California Supreme Court Case No. S119498.

State Personnel Board v. California State Employees Association,
California Supreme Court Case No. S122058.

Connerly v. State Personnel Board, California Supreme Court
Case No. S125502.

International Union of Operating Engineers v. State Personnel Board,
Public Employment Relations Board (PERB) Case No. SA-CE-1295-S.

State Compensation Ins. Fund v. State Personnel Board/CSEA,
Sacramento Superior Court No. 04CS00049.

9. RECOMMENDATIONS TO THE LEGISLATURE

Deliberations on recommendations to the legislature.
[Government Code section 18653.]

10. RECOMMENDATIONS TO THE GOVERNOR

Deliberations on recommendations to the Governor. [Government Code section
18653.]

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

(10:15 a.m. – 11:15 a.m.)

11. THE CALIFORNIA PERFORMANCE REVIEW (CPR) UPDATE

The CPR was established to examine executive branch reorganization, program
performance assessment, budgeting, improved services and productivity, and
acquisition reform.

(11:15 a.m. – 12:00 p.m.)

CLOSED SESSION OF THE STATE PERSONNEL BOARD

(12:00 p.m. - 1:00 p.m.)

LUNCH

(1:00 p.m. - 2:00 p.m.)

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

12. **HEARING** – State Personnel Board staff propose to amend regulations for pre-employment psychological screening of peace officer candidates which would reorganize, revise, and update terminology to include a new definition of “qualified professional” in alignment with changes recently made to law, provide a more accurate and complete description of psychological screening standards and procedures, and add references to relevant laws. - **ELIZABETH MONTOYA/CAROL ONG**

(2:00 p.m. – 2:30 p.m.)

13. **COOPERATIVE PERSONNEL SERVICE BRIEFING – KAREN BRANDT/ KAREN COFFEE**

Discussion of CPS’s planned purchase of a private company.

(2:30 p.m. – 3:45 p.m.)

CLOSED SESSION OF THE STATE PERSONNEL BOARD

Discussion of CPS’s planned purchase of private company.
[Government Code sections 11126, subdivisions (c) and (e), 18653.]

(3:45 p.m. – 4:15 p.m.)

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

14. **ORAL ARGUMENT**

Oral argument in the matter of **DON DOWLING**, Case No. 04-1482A and **ROGER HANSON**, Case No. 04-1523A

(4:15 p.m. - 4:30 p.m.)

CLOSED SESSION OF THE STATE PERSONNEL BOARD

15. **STAFF CALENDAR ITEMS FOR BOARD INFORMATION**

Staff has approved the following:

- (a) The Bureau of State Audits proposes to revise the Minimum Qualifications for the Auditor, Bureau of State Audits Series Specification to increase

the candidate pool; revise alternative range 339; and abolish the class of Auditor, Bureau of State Audits which is no longer utilized.

16. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY

This section of the Agenda serves to inform interested individuals and departments of proposed and approved CEA position actions.

The first section lists position actions that have been proposed and are currently under consideration.

Any parties having concerns with the merits of a proposed CEA position action should submit their concerns in writing to the Classification and Compensation

Division of the Department of Personnel Administration, the Merit Employment and Technical Resources Division of the State Personnel Board, and the department proposing the action.

To assure adequate time to consider objections to a CEA position action, issues should be presented immediately upon receipt of the State Personnel Board

Agenda in which the proposed position action is noticed as being under consideration, and generally no later than a week to ten days after its publication.

In cases where a merit issue has been raised regarding a proposed CEA position action and the dispute cannot be resolved, a hearing before the five-member Board may be scheduled. If no merit issues are raised regarding a proposed CEA position action, and it is approved by the State Personnel Board, the action becomes effective without further action by the Board.

The second section of this portion of the Agenda reports those position actions that have been approved. They are effective as of the date they were approved by the Executive Officer of the State Personnel Board.

A. REQUESTS TO ESTABLISH NEW CEA POSITIONS CURRENTLY UNDER CONSIDERATION

CHIEF COUNSEL

The Department of General Services proposes to allocate the above position to the CEA category. The Chief Counsel drafts policy for the Deputy Director of Legal Affairs in the Executive Office impacting all state agencies in the areas of procuring services through contracting and other contracting issues.

ASSISTANT DIVISION CHIEF, MEDI-CAL MANAGED CARE DIVISION

The Department of Health Services proposes to allocate the above position to the CEA category. The Assistant Division Chief, in conjunction with the Division Chief, is responsible for the overall policy development and implementation of the MMCD's Medi-Cal Managed Care monitoring and evaluation efforts.

CHIEF COUNSEL

The Department of Mental Health proposes to allocate the above position to the CEA category. The Chief Counsel is the primary legal advisor and spokesperson on the many and complex issues facing the Department of Mental Health.

B. EXECUTIVE OFFICER DECISIONS REGARDING REQUESTS TO ESTABLISH NEW CEA POSITIONS

DIRECTOR, STRATEGY PLANNING & LABOR LIAISON

The Department of Insurance's request to allocate the above position to the CEA category has been disapproved effective December 31, 2004.

CHIEF, INFORMATION OFFICER

The Victim Compensation and Government Claims Board's request to allocate the above position to the CEA category has been disapproved effective January 20, 2005.

DEPUTY COMMISSIONER, OFFICE OF COMMUNICATIONS & PRESS RELATIONS

The Department of Insurance's request to allocate the above position to the CEA category has been disapproved effective January 20, 2005.

PROJECT MANAGER, PENSION SYSTEM REPLACEMENT

The California Public Employees' Retirement System's request to allocate the above position to the CEA category has been approved effective February 14, 2005, for a period of twenty four months.

CHIEF, PRODUCTION AND OPERATIONS MANAGEMENT DIVISION

The Employment Development Department's request to allocate the above position to the CEA category has been approved effective February 14, 2005.

DEPUTY COMMISSIONER, ENFORCEMENT BRANCH

The Department of Insurance's request to allocate the above position to the CEA category has been approved effective February 15, 2005.

CHIEF, INVESTIGATION DIVISION

The Department of Insurance's request to allocate the above position to the CEA category has been approved effective February 15, 2005.

17. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, & OTHER APPEALS

Deliberations to consider matter submitted at prior hearing. [Government Code sections 11126(d), 18653.]

18. BOARD ACTIONS

These items have been taken under submission by the State Personnel Board at a prior meeting and may be before the Board for a vote at this meeting. This list does not include evidentiary cases, as those cases are listed separately by category on this agenda under Evidentiary Cases.

(See Agenda - Page 20)

19. PRESENTATION OF EMERGENCY ITEMS AS NECESSARY

(4:30 p.m. - CLOSE)

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

A D J O U R N M E N T

20. EVIDENTIARY CASES

The Board Administrative Law Judges conduct evidentiary hearings in appeals that include, but are not limited to, adverse actions, medical terminations, demotions, discrimination, reasonable accommodations, and whistleblower complaints.

A. BOARD CASES SUBMITTED

These items have been taken under submission by the State Personnel Board at a prior meeting. Cases that are before the Board for vote will be provided under separate cover.

DANNY BOYD, CASE NO. 03-1537PA

Appeal from dismissal

CLASSIFICATION: Youth Correctional Officer

DEPARTMENT: Department of Youth Authority

JENNIFER CADY, CASE NO. 03-3390EA

Appeal from denial of request for reasonable accommodation

CLASSIFICATION: Deputy Attorney General IV

DEPARTMENT: Department of Justice

SHARON COHEN, CASE NO. 03-3389EA

Appeal from denial of request for reasonable accommodation

CLASSIFICATION: Deputy Attorney General IV

DEPARTMENT: Department of Justice

JOHN A. CRUZ, CASE NO. 04-1376A

Appeal from 60-calendar-days suspension

CLASSIFICATION: Automotive Equipment Operator I

DEPARTMENT: California Department of Veterans Affairs

NESSLIN CRUZ, CASE NO. 03-1854A

Appeal from ten-work-days suspension

CLASSIFICATION: Employment Program Representative
(Permanent/Intermittent)

DEPARTMENT: Employment Development Department

JOHN FLORES, CASE NO. 03-2588EA

Appeal of retaliation

CLASSIFICATION: Hospital Police Officer I

DEPARTMENT: Department of Mental Health

HAJI JAMEEL, CASE NO. 04-0330A

Appeal from dismissal

CLASSIFICATION: Supervising Transportation Engineer

DEPARTMENT: California Public Utilities Commission

JOE W. JORDAN, CASE NO. 04-0393A

Appeal from dismissal

CLASSIFICATION: Youth Correctional Counselor

DEPARTMENT: Department of Youth Authority

SAMUEL SWEENEY, CASE NO. 04-0794A

Appeal from 20-calendar-days suspension

CLASSIFICATION: Correctional Officer

DEPARTMENT: Department of Corrections, Institution for Men – Chino

B. CASES PENDING

ORAL ARGUMENTS

These cases are on calendar to be argued at this meeting or to be considered by the Board in closed session based on written arguments submitted by the parties.

DON DOWLING, CASE NO. 04-1482A AND

ROGER HANSON, CASE NO. 04-1523A

Appeals from dismissal

CLASSIFICATION: Peace Officer I, Developmental Center

DEPARTMENT: Department of Developmental Services

C. CHIEF COUNSEL RESOLUTIONS

CRAIG SCOTT, CASE NO. 04-1516, request for orders to show cause

GEORGE LATHROP, CASE NO. 01-0684, request for orders to show cause

KEVIN D. HICKS, CASE NO. 03-3183, resolution revoking the Board's prior decision of October 5, 2004, withholding appellant from consideration for employment as a Correctional Officer. In this resolution, the Department of Corrections is directed to immediately place appellant's name on its current eligibility list for the classification of Correctional Officer.

COURT REMANDS

This case has been remanded to the Board by the court for further Board action.

THALVAIPALAYAM SOUNDARAJAN, CASE NO. 02-1953, court remand

STIPULATIONS

These stipulations have been submitted to the Board for Board approval, pursuant to Government Code, section 18681.

MICHAEL GARABEDIAN, CASE NO. 04-1394

Seeking approval of settlement agreement in the position of Staff Counsel with the Department of Conservation

XIAOMEI MA, CASE NO. 03-2251

Seeking retroactive promotion from the position of Associated Industrial Hygienist to Senior Industrial Hygienist with the Department of Toxic Substances Control and settlement of merit issue complaint.

D. ADMINISTRATIVE LAW JUDGE'S (ALJ) PROPOSED DECISIONS

PROPOSED DECISIONS

These are ALJ proposed decisions submitted to the Board for the first time.

WILLIAM ANDERSON, CASE NO. 03-3359B

Appeal from back pay

CLASSIFICATION: Officer, California Highway Patrol

DEPARTMENT: California Highway Patrol

DEBRA CHANDLER, CASE NO. 04-1879

Appeal from suspension for ten work days

CLASSIFICATION: Parole Agent I

DEPARTMENT: Department of Corrections

CLETUS CURAH, CASE NO. 04-2146

Appeal from dismissal

CLASSIFICATION: Transportation Engineer

DEPARTMENT: Department of Transportation

MARIA HOLDREN, CASE NO. 04-1563

Appeal from demotion

CLASSIFICATION: Correctional Case Records Manager

DEPARTMENT: Department of Corrections

STEVEN JACKSON, CASE NO. 04-1683

Appeal from ten percent reduction in salary for 12 months

CLASSIFICATION: Parole Agent I

DEPARTMENT: Department of Corrections

MATTHEW JANNUSCH, CASE NO. 04-2258

Appeal from five percent reduction in salary for three months

CLASSIFICATION: Correctional Officer

DEPARTMENT: Department of Corrections

JAMES MCAULEY, CASE NO. 04-1856

Appeal from dismissal

CLASSIFICATION: Associate Transportation Engineer

DEPARTMENT: Department of Transportation

SANDRA MORANT, CASE NO. 04-2255

Appeal from dismissal

CLASSIFICATION: Administrative Support Coordinator II

DEPARTMENT: California State University

REBECCA NORTHCUTT, CASE NO. 03-1364

Appeal from five working days suspension

CLASSIFICATION: Community Program Specialist II

DEPARTMENT: Area Development Disabilities Board VII

REBECCA NORTHCUTT, CASE NO. 03-1936E

Appeal from reasonable accommodation

CLASSIFICATION: Community Program Specialist II

DEPARTMENT: Area Development Disabilities Board VII

DANIEL RAMIREZ, CASE NOS. 04-0761E & 04-1509

Appeal from constructive medical termination and
appeal from discrimination on the basis of disability

CLASSIFICATION: Office Assistant (General)

DEPARTMENT: Department of Health Services

ERNEST RAUSCH, CASE NO. 04-2368

Appeal from five percent reduction in salary for three months

CLASSIFICATION: Correctional Officer

DEPARTMENT: Department of Corrections

SHERRY REEHL, CASE NO. 04-2949

Appeal from dismissal

CLASSIFICATION: Officer, California Highway Patrol

DEPARTMENT: California Highway Patrol

NUBIA REYES, CASE NO. 04-2128

Appeal from five percent reduction in salary for six months

CLASSIFICATION: Psychiatric Technician

DEPARTMENT: Department of Developmental Services

LETICIA RIVERA, CASE NO. 04-1887E

Appeal from denial of reasonable accommodation

CLASSIFICATION: Staff Services Manager I

DEPARTMENT: Department of Health Services

RICKIE SCHENK, CASE NO. 04-2124

Appeal from five percent reduction in salary for six months

CLASSIFICATION: Correctional Officer

DEPARTMENT: Department of Corrections

HARVEY E. WHALEN III, CASE NO. 04-0617

Appeal from dismissal

CLASSIFICATION: Caltrans Heavy Equipment Mechanic

DEPARTMENT: Department of Transportation

Proposed Decisions Taken Under Submission At Prior Meeting

These are ALJ proposed decisions taken under submission at a prior Board meeting, for lack of majority vote or other reason.

NONE

PROPOSED DECISIONS AFTER BOARD REMAND

LUIS VALENZUELA, CASE NO. 04-0522

Appeal from dismissal

CLASSIFICATION: Correctional Officer

DEPARTMENT: Department of Corrections

PROPOSED DECISIONS AFTER SPB ARBITRATION

BRIAN RENFROW, CASE NO. 04-2396

Appeal from five-day suspension

CLASSIFICATION: Officer, California Highway Patrol

DEPARTMENT: California Highway Patrol

E. PETITIONS FOR REHEARING

ALJ PROPOSED DECISIONS ADOPTED BY THE BOARD

The Board will vote to grant or deny a petition for rehearing filed by one or both parties, regarding a case already decided by the Board.

JOHN HILLEBRECT, CASE NO. 04-1236P

Appeal from reduction in salary

CLASSIFICATION: Construction Inspector II

DEPARTMENT: Petition of Rehearing filed by appellant to be granted or denied.

WHISTLEBLOWER NOTICE OF FINDINGS

The Board will vote to grant or deny a petition for rehearing filed by one or both parties, regarding a Notice of Findings issued by the Executive Officer under Government Code, section 19682 et seq. and Title 2, California Code of Regulations, section 56 et seq.

GARY TROBEE, CASE NO. 04-1900P

Appeal from Whistleblower Retaliation

CLASSIFICATION: Senior Information Systems Analyst Supervisor

DEPARTMENT: Public Employees Retirement System

F. PENDING BOARD REVIEW

These cases are pending preparation of transcripts, briefs, or the setting of oral argument before the Board.

**JACOB ARIS, CASE NO. 04-1378E AND
NICHOLAS RUTHART, CASE NO. 04-1409E**

Appeal of discrimination complaint

CLASSIFICATION: Employment Program Representatives

DEPARTMENT: Employment Development Department

PATRICK BARBER, CASE NO. 04-0279

Appeal from dismissal

CLASSIFICATION: Youth Correctional Counselor

DEPARTMENT: Department of the Youth Authority

DAVID BARTON, CASE NO. 04-1434

Appeal from dismissal

CLASSIFICATION: Associate Hazardous Materials Specialist

DEPARTMENT: Department of Corrections,
Wasco State Prison – Wasco

ERNEST J. DURAN, CASE NO. 04-0853

Appeal from demotion

CLASSIFICATION: Special Agent in Charge

DEPARTMENT: Department of Justice

CHAD LOOK, CASE NO. 04-1789

Appeal from 60-work-days suspension

CLASSEIFICATION: Correctional Officer

DEPARTMENT: Department of Corrections,
Wasco State Prison - Wasco

KIM RITTENHOUSE, CASE NOS. 03-3541A & 03-3542E

Appeal from denial of reasonable accommodation and from constructive
medical termination

CLASSIFICATION: Office Technician (General)

DEPARTMENT: Department of Fish and Game

DARYL STONE, CASE NO. 04-0279

Appeal from dismissal

CLASSIFICATION: Peace Officer I

DEPARTMENT: Department of Developmental Services

ANTHONY VEGAS, Case No. 03-2204A

Appeal from dismissal

CLASSIFICATION: Parole Agent I (Adult Parole)

DEPARTMENT: Department of Corrections – Stockton

21. NON-EVIDENTIARY CASES

A. WITHHOLD APPEALS

Cases heard by a Staff Hearing Officer, a managerial staff member of the State Personnel Board or investigated by Appeals Division staff. The Board will be presented recommendations by a Staff Hearing Officer or Appeals Division staff for final decision on each appeal.

WITHHOLD FROM CERTIFICATION
CASES HEARD BY A STAFF HEARING OFFICER

NONE

WITHHOLD FROM CERTIFICATION
CASES NOT HEARD BY A STAFF HEARING OFFICER

KRISTA EKLUND, CASE NO. 04-0897

CLASSIFICATION: Correctional Officer

DEPARTMENT: Department of Corrections

ISSUE: The appellant furnished inaccurate information and omitted pertinent information about negative law enforcement contacts.

STEPHANIE MILLS, CASE NO. 04-0456

CLASSIFICATION: Correctional Officer

DEPARTMENT: Department of Corrections

ISSUE: The appellant was not eligible to carry a firearm at the Time of her application for the position.

KAO SAECHAO, CASE NO. 04-0809

CLASSIFICATION: Correctional Officer

DEPARTMENT: Department of Corrections

ISSUE: Suitability, omitted pertinent information, negative law enforcement contacts.

DAVID SILVA, CASE NO. 04-0807

CLASSIFICATION: Correctional Officer

DEPARTMENT: Department of Corrections

ISSUE: Suitability.

B. MEDICAL AND PSYCHOLOGICAL SCREENING APPEALS

Cases heard by a Staff Hearing Panel comprised of a managerial staff member of the State Personnel Board and a medical professional. The Board will be presented recommendations by a Hearing Panel on each appeal.

NONE

**C. EXAMINATION APPEALS
MINIMUM QUALIFICATIONS
MERIT ISSUE COMPLAINTS**

Cases heard by a Staff Hearing Officer, a managerial staff member of the State Personnel Board or investigated by Appeals Division staff. The Board will be presented recommendations by a Staff Hearing Officer or Appeals Division staff for final decision on each appeal.

NONE

**D. RULE 211 APPEALS
RULE 212 OUT OF CLASS APPEALS
VOIDED APPOINTMENT APPEALS**

Cases heard by a Staff Hearing Officer, or a managerial staff member of the State Personnel Board. The Board will be presented recommendations by a Staff Hearing Officer for final decision on each appeal.

NONE

E. REQUEST TO FILE CHARGES CASES

Investigated by Appeals Division staff. The Board will be presented recommendations by Appeals Division staff for final decision on each request.

DEAN DRAKE, CASE NO. 04-0339

CLASSIFICATION: Correctional Officer

DEPARTMENT: Department of Corrections

ISSUE: The charging party requests to file charges under various subsections of Government Code section 19572.

PETITIONS FOR REHEARING CASES

NONE

F. PSYCHOLOGICAL SCREENING CASES

Cases reviewed by Appeals Division staff, but no hearing was held. It is anticipated that the Board will act on these proposals without a hearing.

NONE

22. NON-HEARING CALENDAR

The following proposals are made to the State Personnel Board by either the Board staff or Department of Personnel Administration staff. It is anticipated that the Board will act on these proposals without a hearing.

Anyone with concerns or opposition to any of these proposals should submit a written notice to the Executive Officer clearly stating the nature of the concern or opposition. Such notice should explain how the issue in dispute is a merit employment matter within the Board's scope of authority as set forth in the State Civil Service Act (Government Code section 18500 et seq.) and Article VII, California Constitution. Matters within the Board's scope of authority include, but are not limited to, personnel selection, employee status, discrimination and affirmative action. Matters outside the Board's scope of authority include, but are not limited to, compensation, employee benefits, position allocation, and organization structure. Such notice must be received not later than close of business on the Wednesday before the Board meeting at which the proposal is scheduled. Such notice from an exclusive bargaining representative will not be entertained after this deadline, provided the representative has received advance notice of the classification proposal pursuant to the applicable memorandum of understanding. In investigating matters outlined above, the Executive Officer shall act as the Board's authorized representative and recommend the Board either act on the proposals as submitted without a hearing or schedule the items for a hearing, including a staff recommendation on resolution of the merit issues in dispute.

- (a) The California Department of Social Services proposes revisions to the Licensing Program Supervisor and Licensing Program Manager classifications including re-titling of these classes to the Licensing Program Manager I & II; establishment of the class of Licensing Program Manager III with a 12-month probationary period; and reallocation of specified Staff Services Manager II & III incumbents in the Community Care Licensing Program to the classes of Licensing Manager II and III respectively.

23. RESOLUTION EXTENDING TIME UNDER GOVERNMENT CODE SECTION 18671.1 EXTENSION

(See Agenda Page 22)

TWO-DAY FULL BOARD MEETING AGENDA⁴

DAY TWO – MARCH 9, 2005

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

(9:00 a.m. – 9:05 a.m.)

1. ROLL CALL

(9:05 a.m. - 9:50 a.m.)

2. PSC 04-04 – SECRETARY OF STATE (SOS) CONTRACT WITH RENNE & HOLZMAN PUBLIC LAW GROUP

Appeal of the Secretary of State from the Executive Officer's October 15, 2004 disapproval of SOS's contract with Renne & Holtzman Public Law Group upon the review request submitted by the California Attorneys, Administrative Law Judges and Hearing Officers in state employment.

(9:50 a.m. - 10:00 a.m.)

CLOSED SESSION OF THE STATE PERSONNEL BOARD

(10:00 a.m. – 10:30 a.m.)

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

3. BRIEFING BILINGUAL PROGRAMS – DEBBIE SILVA

State Personnel Board staff to present an overview of the Bilingual Services Program and share bilingual resources and tools developed to assist state department's compliance with the Dymally-Alatorre Bilingual Services Act.

⁴ The Agenda for the Board can be obtained at the following internet address:
<http://www.spb.ca.gov/calendar.htm>

(10:30 a.m. – 11:15 a.m.)

4. PSC 04-05 - DEPARTMENT OF EDUCATION AND MCGEORGE LAW SCHOOL

Appeal of the California Attorneys, Administrative Law Judges and Hearing Officers in State Employment from the Executive Officer's November 17, 2004 Approval of a Contract between California Department of Education and McGeorge School of Law.

(11:15 a.m. – 11:30 a.m.)

CLOSED SESSION OF THE STATE PERSONNEL BOARD

(11:30 a.m. - CLOSE)

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

A D J O U R N M E N T

SUBMITTED

TEACHER STATE HOSPITAL (SEVERELY), ETC.

Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002.)

VOCATIONAL INSTRUCTOR (SAFETY)(VARIOUS SPECIALTIES)

Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002.)

TELEVISION SPECIALIST (SAFETY)

The Department of Corrections proposes to establish the new classification Television Specialist (Safety) by using the existing Television Specialist class specification and adding "Safety" as a parenthetical to recognize the public aspect of their job, additional language will be added to the Typical Tasks section of the class specification and a Special Physical Characteristics section will be added. (Presented to Board March 4, 2003.)

HEARING - PSC #04-03

Appeal of the California State Employees Association from the Executive Officer's April 15, 2004, Approval of Master Contracts between the California Department of Corrections and Staffing Solutions, CliniStaff, Inc., Staff USA, Inc., CareerStaff Unlimited, MSI International, Inc., Access Medical Staffing & Service, Drug Consultants, Infinity Quality Services Corporation, Licensed Medical Staffing, Inc., Morgan Management Services, Inc., Asereth Medical Services, and PrideStaff dba Rx Relief. (Hearing held August 12, 2004.)

HEARING

Proposed new and revised State Personnel Board Regulations effecting equal opportunity, discrimination complaints and reasonable accommodation policies and procedures. (Hearing held July 7, 2004.)

NOTICE OF GOVERNMENT CODE SECTION 18671.1 RESOLUTION

Since Government Code section 18671.1 requires that cases pending before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional 45 days, the Board hereby publishes its substantial reasons for the need for the 45-day extension for some of the cases now pending before it for decision.

An additional 45 days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than six months as of the date of the Board meeting.

GOVERNMENT CODE SECTION 18671.1 RESOLUTION

WHEREAS, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

WHEREAS, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

WHEREAS, the Agenda for the instant Board meeting included an item titled "Notice of Government Code section 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

WHEREAS, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

* * * * *



CALIFORNIA STATE PERSONNEL BOARD

ARNOLD SCHWARZENEGGER, GOV.

801 Capitol Mall • Sacramento, California 95814 • www.spb.ca.gov

(Cal. 3/8/05)

TO: Members
State Personnel Board

FROM: State Personnel Board - Legislative Office

SUBJECT: LEGISLATION

The status of major legislation being followed for impact on Board programs and the general administration of the State Civil Service Merit System is detailed in the attached report.

Any legislative action that takes place after the printing of this report, which requires discussion with the Board, will be covered during the Board meeting.

Please contact me directly should you have any questions or comments regarding this report. I can be reached at (916) 653-0453.


Sherry Hicks
Director of Legislation

Attachment

**STATE PERSONNEL BOARD
LEGISLATIVE TRACKING
REPORT
2005-06 SESSION**

**Status as of
February 23, 2005**



ASSEMBLY BILLS (Tracking)

BILL/ AUTHOR	BOARD POSITION	SUBJECT	STATUS OF BILL
AB 38 (Tran)	OPPOSE	AB 38 proposes suspending the salaries of specific state board and commission members for the fiscal years 2005 through 2009. The State Personnel Board is one of those boards that would not receive salaries for those fiscal years.	Assembly Business and Professions Committee
AB 53 (Negrete McLeod)		This bill would declare the Legislature's intent to build upon efforts to, eliminate governmental waste and inefficiency, consolidate 5 separate state agencies into a single entity with specified responsibilities, create an Office of Management and Budget with responsibility for the state's fiscal affairs, personnel management, and procurement systems, and consolidate the Teale Data Center and the Health and Human Services Data Center.	Not assigned to Committee
AB 94 (Haynes)		Among other things, this bill would require various state agencies to prepare and provide a report to the Senate Committee on Rules, the Assembly Committee on Rules, and to each member of the Senate Committee on Budget and Fiscal Review and the Assembly Committee on Budget on the financial activities of the agency, board, commission, department, or office for the 2000-01, 2001-02, 2002-03, 2003-04 and 2004-05 fiscal years no later than January 15, 2006, and for each subsequent fiscal year by January 15 of the following year.	Assembly Business and Professions Committee

AB 124 (Dymally)	SUPPORT	This bill would repeal requirements to annually establish employment goals and timetables based on race or gender that were invalidated by the California Court of Appeal in <i>Connerly v. State Personnel Board</i> , and re-title Chapter 12 of Part 2, Division 5, Title 2 of the Government Code from "Affirmative Action Program" to "State Equal Employment Opportunity Program". In addition, it would strengthen equal employment opportunity requirements.	Assembly PERS Committee (SPB Sponsored)
AB 194 (Dymally)		The Ralph M. Brown Act requires, with specified exceptions, that all meetings of a legislative body of a local agency be open and public and all persons be permitted to attend. This bill would remove the requirement that the legislative body be allowed to cure or correct an alleged violation prior to commencement of a legal action and would remove provisions that preclude specified actions from being determined to be null and void.	Assembly Committee on Local Government
AB 195 (Dymally)		This bill would expand the remedies available to individuals who file discrimination complaints with the State Personnel Board by authorizing the State Personnel Board to award reasonable attorney's fees and costs, including expert witness fees.	Assembly Judiciary Committee
AB 271 (Blakeslee)		This bill would provide that a person appointed to any state scientist class on or after January 1, 2006, shall, at a minimum, have a baccalaureate degree in a scientific discipline from an accredited university.	Assembly PERS Committee
AB 277 (Mountjoy)		This bill also would authorize the Board of Administration of the Public Employees' Retirement System to hold closed sessions when considering matters relating to the development of rates and competitive strategy for long-term care insurance plans.	Not assigned to Committee
AB 297 (Yee)		This bill would specify that a current patient of a facility operated by the State Department of Mental Health may not file these charges against a state employee.	Assembly PERS Committee

SENATE BILLS (Tracking)

SB 165 (Speier)	<p>Under the California Whistleblower Protection Act, the State Personnel Board is charged with initiating a hearing or investigation of a written complaint of reprisal or retaliation against a state employee who complains of improper governmental activity, as provided. This bill would repeal these provisions and instead, establish the Office of the Special Counsel within the State Personnel Board to protect state employees and applicants for state employment from prohibited personnel practices, as specified, to receive and investigate allegations of alleged violations of those provisions, and to initiate disciplinary proceedings. The Special Counsel would be appointed by the Governor, subject to confirmation by the Senate, for a 6-year term and may not be removed from office during that term, except for good cause. This bill contains other related provisions and other existing laws.</p>	Not assigned to Committee
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TO: STATE PERSONNEL BOARD

FROM: DR. SHERRILL LEAKE
State Psychological Officer

ELIZABETH MONTOYA
Manager, Policy Division

REVIWED BY: LAURA AGUILERA
Assistant Executive Officer

SUBJECT: PROPOSED AMENDMENTS TO STATE PERSONNEL
BOARD REGULATIONS FOR PRE-EMPLOYMENT
PSYCHOLOGICAL SCREENING OF PEACE OFFICER
CANDIDATES

NATURE OF REQUEST:

State Personnel Board (SPB) staff are proposing to amend Title 2, California Code of Regulations (2CCR) §§ 172.4 through 172.11, which codify the definitions, standards, and procedures for pre-employment psychological screening of peace officer candidates. The proposed amendments reorganize, revise, and update terminology to include a new definition of “qualified professional” in alignment with changes recently made to law, provide a more accurate and complete description of psychological screening standards and procedures, and add references to relevant laws. Language contained in 2CCR § 172.7 is incorporated into 2CCR § 172.6, so that 2CCR § 172.7 is proposed for repeal. This results in the renumbering of *current* sections.

REASON FOR HEARING:

In the attached NOTICE OF PROPOSED REVISION OF REGULATIONS AND STATEMENT OF REASONS dated January 21, 2005, interested parties were notified that a public hearing would be held to receive written and oral testimony on the proposed amendments to these regulations at the March 8, 2005 Board meeting.

BACKGROUND

By law, SPB is charged with conducting examinations to test and determine the qualifications, fitness and ability of competitors to perform the duties of a classification. Government Code (GC) § 1031 specifically requires candidates for peace officer classifications to be found free from any physical, emotional, or mental condition, which might adversely affect the exercise of the duties and

powers as a peace officer. Subdivision (g) of GC § 1031 permits the adoption of additional or higher standards than those provided in GC § 1031. GC § 13601 extends this requirement to peace officers at youth or adult state correctional facilities.

Existing 2CCR §§ 172.4 through 172.11 codify the definitions, standards, and procedures for pre-employment psychological screening of peace officer applicants as they were initially conceived and implemented some 18 years ago. Professional standards and procedures have evolved which require that these regulations be updated. Effective January 1, 2005, Assembly Bill 1669 modified subdivision (f) of GC § 1031 to more specifically define the qualifications and experience requirements of a “qualified professional” who may conduct pre-employment psychological evaluations.

The proposed amended regulations reorganize and update existing language to address these matters, and add references to relevant law to new and existing sections. These amendments will have no impact on the way SPB currently conducts psychological screening.

RECOMMENDATION:

It is recommended that the Board adopt the proposed amendments to Title 2, California Code of Regulations §§ 172.4 through 172.11, and the repeal of existing § 172.7, as shown in the current calendar.

Attachment: NOTICE OF PROPOSED REVISION OF REGULATIONS AND STATEMENT OF REASONS.



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**NOTICE OF PROPOSED REVISION OF REGULATIONS
AND STATEMENT OF REASONS**

**California Code of Regulations
Title 2. Administration
Division 1. Administrative Personnel
Chapter 1. State Personnel Board**

DATE: January 21, 2005

TO: ALL STATE AGENCIES, EMPLOYEE ORGANIZATIONS, AND
MEMBERS OF THE GOVERNOR'S CABINET

SUBJECT: Proposed Amendment and Repeal of Regulations Affecting
Psychological Screening of Peace Officer Candidates

AUTHORITY:

Under authority established in Government Code (GC) § 18701, the State Personnel Board (SPB) proposes to revise Title 2 of the California Code of Regulations (2CCR) §§ 172.4 through 172.11 to bring standards and procedures for psychological screening into alignment with current professional practice and recent changes made by law. This action proposes the repeal of 2CCR § 172.7.

REFERENCE:

This regulation is amended to implement, interpret, and/or make specific GC §§ 1031, subdivisions (f) and (g), 18500, 18670, 18930, 18931, 18935, 19253.5 and 19261, and Penal Code (PC) § 13601(a).

PUBLIC HEARING:

Date and Time: March 8, 2005 from 1:00 to 2:00 p.m.

Place: 801 Capitol Mall, Room 150, Auditorium
Sacramento, California

Purpose: To receive written or oral comments about this
action.

WRITTEN PUBLIC COMMENT PERIOD:

The written public comment period will close Monday, March 7, 2005, at 5:00 p.m. This comment period allows time for SPB staff to provide copies of any written comments to the five-member State Personnel Board (Board) for their consideration at the time of the hearing. Any person may submit written comments about the proposed amendments.

To be considered by the Board, the appropriate person identified below must receive written comments before the close of the 45-day comment period.

Written comments may be submitted to Dr. Sherrill Leake at SPB, P.O. Box 944201, Sacramento, CA 94244-2010, or to SLeake@spb.ca.gov, or faxed to her attention at (916) 653-5677.

AVAILABILITY OF PROPOSED TEXT AND STATEMENT OF REASONS/CONTACT PERSONS:

Copies of the express terms of the proposed action, the Statement of Reasons, and all of the information upon which this proposal is based are available upon request directed to Elizabeth Montoya. The rulemaking file is available for review during normal business hours at SPB, 801 Capitol Mall, Sacramento, CA 95814. Additional information or questions regarding the substance of the proposed action should be directed to Dr. Sherrill Leake as specified above. Questions regarding the regulatory process in conjunction with this regulation should be directed to Elizabeth Montoya at the SPB, P.O. Box 944201, Sacramento, CA 94244-2010, or by telephone at (916) 654-0842 or TDD (916) 653-1498.

AVAILABILITY OF CHANGES TO PROPOSED TEXT:

If any substantial and sufficiently related changes are made to the text as a result of comments received during the public comment period, SPB will make the full text of the changed regulation(s) available for at least 15 days before the date the regulation is permanently amended.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW:

Section 1(b) of Article VII of the Constitution provides that civil service permanent appointment and promotions shall be made under a general system based on merit ascertained by competitive examination.

GC § 18500 authorizes SPB to facilitate the operation of Article VII of the Constitution in regard to the merit system.

GC § 18670 specifies that SPB conduct hearings and make investigations concerning the selection process.

GC § 18701 authorizes SPB to prescribe, amend and repeal regulations for the administration and enforcement of the Civil Service Act.

GC § 18930 requires that examinations for the establishment of lists be competitive and of such a character to fairly test and determine the qualifications, fitness and ability of competitors to perform the duties of the classification.

GC § 18931 specifies that SPB establish minimum qualifications for determining the fitness and qualifications of employees and applicants for examinations. It also allows SPB to require necessary evidence of fitness.

GC § 18935(c) permits SPB to declare ineligible, or withhold or withdraw from certification, prior to employment, anyone found to be “physically or mentally so disabled as to be rendered unfit to perform the duties of the position to which he or she seeks appointment.”

GC § 1031, subdivision (f) (added in 1961, amended in 1972), states that prior to employment, peace officer applicants must “be found to be free from any physical, emotional, or mental condition which might adversely affect the exercise of the powers of a peace officer” and that such a determination must be made by a qualified professional as defined in the code. Subdivision (g) of GC § 1031 permits the adoption of additional or higher standards than those required under this section. In 1998, PC § 13601, subdivision (a) was rewritten to extend the above requirement to include correctional peace officer applicants. It additionally specified that any standard for selection established under PC § 13601, subdivision (a) shall be subject to approval by the Board.

Assembly Bill (AB) 1669 (Chapter 777), introduced in February 2003, proposed an amendment to GC § 1031, subdivision (f), to more specifically define a “qualified professional” who performs mental and emotional fitness evaluations for peace officer applicants or employees. (The definition of a qualified professional who may assess physical fitness was not affected.) In addition, AB 1669 was signed into law in October 2003, with an effective date of January 1, 2005.

2CCR §§ 172.4 through 172.11 codifies the definitions, standards and procedures for pre-employment psychological screening of peace officer applicants. SPB is proposing to amend these sections as follows:

1. Repeal existing 2CCR § 172.7 relating to responsibility for psychological screening.
2. Reorganize, revise, and update terminology to include the new definition of “qualified professional” and align standards and procedures with actual practice and the

3. current "state of the art" in the speciality area of psychological screening. These amendments will require the renumbering of certain sections.
4. Add references to GC § 1031, subdivision (g) and PC § 13601, subdivision (a).

IMPACT ON SMALL BUSINESSES:

No impact on small businesses is anticipated from the implementation of the proposed amendment. Implementing the proposed amendment will affect only State departments and current and prospective employees of State departments.

LOCAL MANDATE:

SPB has determined that the proposed action imposes no mandate upon local agencies or school districts and therefore requires no reimbursement pursuant to GC § 17561.

COST ESTIMATES OF PROPOSED ACTION:

Costs or Savings to State Agencies:

The proposed regulation will involve no additional costs or savings to any State agency.

Impact on Housing Costs:

The proposal will not affect housing costs.

Costs or Savings in Federal Funding to the State:

No impact.

Other Nondiscretionary Costs or Savings Imposed on Local Agencies:

This proposal does not impose nondiscretionary costs or savings on local agencies.

Cost Impact on Representative Private Persons or Businesses:

SPB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

ASSESSMENT OF POTENTIAL ADVERSE ECONOMIC IMPACT ON BUSINESS:

SPB has made an initial determination that the proposed action will have no significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

ASSESSMENT REGARDING THE EFFECT ON JOBS/BUSINESSES:

The adoption of the proposed amendments will neither create nor eliminate jobs in the State of California nor result in the elimination, creation, or expansion of existing businesses or create or expand businesses in the State of California.

ALTERNATIVES STATEMENT:

SPB must determine that no reasonable alternative considered by SPB, or that has otherwise been identified and brought to the attention of SPB, would be more effective in carrying out the purpose for which this action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

FINAL STATEMENT OF REASONS:

Upon completion, copies of the Final Statement of Reasons for the proposed action may be obtained from the contact person or backup contact person when it becomes available.

ACCESSING INFORMATION REGARDING THIS RULEMAKING FILE ON THE STATE PERSONNEL BOARD WEBSITE:

The text of the proposed amendments, the Notice of Proposed Amendment of Regulations and Statement of Reasons, and if prepared and when available for review, the Final Statement of Reasons, will be on SPB's website at: www.spb.ca.gov.

STATEMENT OF REASONS:

2CCR §§ 172.4 through 172.11 codify the standards and procedures for pre-employment psychological screening of peace officer (including correctional peace officer) applicants. The proposed revisions to 2CCR §§ 172.4 through 172.11 are being made to: (1) reference GC § 1031, subdivision (f), which on January 1, 2005, was modified by AB 1669 to more specifically define a "qualified professional" who performs mental and emotional fitness evaluations for peace officer applicants or employees; (2) correct and update language so that the standards and procedures are more clearly and accurately defined and brought into alignment with the current professional "state of the art" in psychological screening as allowed by GC § 1031, subdivision (g); and (3) add appropriate references, including GC § 1031, subdivision (g) and PC § 13601, subdivision (a). The proposed changes to procedures and standards will have no impact on the way in which SPB currently conducts psychological screening. The proposed reorganization and updating of language will more accurately reflect the real world process as it has been performed for the past 18 years. Changes in the definition of a "qualified professional" are more substantive but will not impact SPB's current professional staff. By reference, these changes more specifically and narrowly define the professional qualifications required for conducting these evaluations as follows:

Effective January 1, 2005, GC § 1031, subdivision (f) requires that qualified professionals assessing mental and emotional fitness must hold unrestricted licensure by the State of California as either: (1) a physician and surgeon who

has completed formal residency training in psychiatry accredited by the Accreditation Council for Graduate Medical Education, and has at least the equivalent of five full-time years of experience in the diagnosis and treatment of emotional and mental disorders, including the equivalent of three full-time years accrued after completion of the psychiatric residency program; or (2) a psychologist with a doctoral degree and the equivalent of five full-time years of experience in the diagnosis and treatment of emotional and mental disorders, including the equivalent of three full-time years accrued post doctorate. The qualified professionals defined above must also meet any additional training requirements subsequently imposed by the Peace Officer Standards and Training Commission (POST) and/or the Correctional Peace Officer Standards and Training Commission (CPOST).

/Original signed by/

Laura M. Aguilera
Assistant Executive Officer

Attachment: Proposed Text of Amended Regulations

REGULATIONS GOVERNING PSYCHOLOGICAL SCREENING

For this amendment, text added to the regulation is indicated by underline and text deleted from the regulation is indicated by ~~strikethrough~~.

TITLE 2. Administration DIVISION 1. Administrative Personnel CHAPTER 1. State Personnel Board SUBCHAPTER 1. General Civil Service Regulations ARTICLE 8. Examinations

§ 172.4. Definition of Psychological Screening.

Psychological screening is ~~that part of the selection process whereby approval or disapproval for appointment to a peace officer position is based on a psychological evaluation performed by a qualified professional.~~ the mandatory pre-employment assessment of the psychological fitness of candidates for appointment as peace officers including peace officers in either a youth or adult correctional facility.

NOTE: Authority cited: Sections 18211, 18213 and 18701, Government Code. Reference: Sections ~~1031(f)~~, subdivision (f) and 18931, Government Code. Section 13601, subdivision (a), Penal Code.

§ 172.5. Definition of Qualified Professional.

A qualified professional ~~pursuant to Section 172.4 shall be either 1) any licensed physician and surgeon or 2) any licensed psychologist who has a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders.~~ shall meet the criteria set forth in Government Code Section 1031, subdivision (f).

NOTE: Authority cited: Sections 18211, 18213 and 18701, Government Code. Reference: Section ~~1031(f)~~, subdivision (f), Government Code. Section 13601, subdivision (a), Penal Code.

§ 172.6. ~~Conduct of~~ Responsibility for Psychological Screening.

The board ~~shall be responsible for conducting psychological screening pursuant to Section 1(b) of Article VII of the Constitution of the State of California and Government Code Section 18931.~~ psychologically screen candidates for peace officer

classifications, unless the board delegates to an appointing power the authority to conduct psychological screenings in accordance with this regulation. No appointing power shall conduct any psychological screenings without prior board approval authorization. Any request for approval authorization must be submitted in writing to the board. An appointing power authorized by the board to conduct psychological screening shall do so in accordance with the procedures defined in Sections 172.7, 172.8, 172.9, and 172.10.

NOTE: Authority cited: Sections 18211, 18213 and 18701, Government Code.
Reference: Section 18500, Government Code.

§ 172.7. Responsibility for Psychological Screening.

~~Upon the request of an appointing power and subject to board approval, the board shall conduct, or designate an appointing power to conduct, psychological screening of candidates for each class of public officers or employees declared by law to be peace officers. An appointing power designated by the board to conduct psychological screening shall do so in accordance with the procedures defined in Sections 172.8, 172.9, 172.10, and 172.11.~~

~~NOTE: Authority cited: Section 18701, Government Code. Reference: Sections 1031(f) and 18931, Government Code.~~

§ 172.8.7. Standards and Procedures for Psychological Screening.

The standards and procedures for conducting psychological screening shall be as follows:

~~(1) Evaluations concerning the emotional stability of peace officer candidates must be made by a qualified professional as defined in Section 172.5. Minimum Psychological Standards. In order to be certified as a peace officer, a candidate must be found to be free from any job relevant psychological, emotional or mental traits, characteristics, or conditions that might adversely affect the performance of the duties and powers of a peace officer.~~

~~(2) The screening procedures must include a minimum of two written psychological tests. At least one test must be based on patterns of abnormal behavior and at least one must assess characteristics of normal behavior. Psychological Tests. Each candidate shall take a minimum of two written psychological tests (inventories) consistent with the requirements of the Commission on Peace Officer Standards and Training (POST).~~

~~(3) Any decision to disqualify must be based, in part, on a clinical interview which confirms the results of the written tests and substantiates the withholding or withdrawal of certification pursuant to SPB Section 172.9. Evaluation Interview. Each candidate shall have a face-to-face evaluation interview conducted by a qualified~~

professional as defined in Section 172.5 and selected by the board's Psychological Officer. With respect to each candidate, the interviewing qualified professional shall have prior access to all psychological screening tests and questionnaire data, summaries of available prior screening reports, summaries of available prior mental health evaluation/treatment records and salient medical records, and a summary of the appointing power's background investigation report.

(4) Report of Findings. The interviewing qualified professional shall submit to the board's Psychological Officer a recommendation as to whether the candidate meets the minimum psychological standards for appointment as a peace officer, together with a detailed report of findings and opinions that explain and support the recommended decision.

(5) Screening Determination. The board's Psychological Officer shall determine whether candidates should be certified as meeting the psychological standards for appointment as peace officers, subject to the right of appeal to the board. In determining whether a candidate meets the psychological standards for appointment as a peace officer, the board's Psychological Officer shall consider the qualified professional's report of findings, written psychological test data, and substantiating behavioral evidence derived from one or more of the following sources: prior evaluation and/or treatment records; background investigation or other information collected by the appointing power or the board; the candidate's self-report of personal history; and behavior manifested in the evaluation interview.

NOTE: Authority cited: Sections 18211, 18213 and 18701, Government Code. Reference: Sections 1031(f), subdivisions (f) and (g) and 18931, Government Code. Section 13601(a), Penal Code.

§ 172.9-8. Psychological Screening Withhold from Certification.

~~The board may withhold or withdraw from certification, prior to appointment, any person with an emotional or mental condition which might adversely affect the exercise of the powers of a peace officer. Such a condition shall include any clinical psychopathology (including personality disorders) which presents an imminent and substantial risk to safe and effective job performance. Such withholding or withdrawal of certification shall be substantiated by evidence of behavior manifested by the candidate which corroborates the presence of the psychopathology. The behavior need not be observed directly, as the evidence of such behavior may be obtained from (1) the clinical interview conducted with the candidate. (2) information collected by the board or the appointing power during the selection process or otherwise prior to appointment, or (3) information provided by the candidate verbally or in writing prior to appointment. candidate who does not meet the minimum psychological standards as defined in Section 172.7(1).~~

NOTE: Authority cited: Sections 18211, 18213 and 18701, Government Code. Reference: Section 18935, Government Code.

§ 172.40.9. Appeal of Psychological Screening Withhold.

Candidates withheld or withdrawn from certification pursuant to Section 172.98 may ~~appeal the disqualification according to the procedures described in Section 51.2.~~ file a written appeal. Any such appeal shall be filed within 30 days after the candidate is notified that he or she had been withheld or withdrawn from certification. Upon receipt of the written appeal, the Appeals division will forward to the candidate instructions for obtaining an evaluation from an outside qualified professional selected by the candidate, including a release form to be signed by the candidate authorizing the release of psychological screening records to the qualified outside professional. The appeal may be dismissed if the candidate fails to return the signed authorization prior to obtaining an evaluation from the outside professional. The qualified outside professional shall, within 90 days of the date that the appeal is filed with the board, submit a signed written report stating an opinion as to whether the candidate meets the minimum psychological standards for appointment as a peace officer, together with documentation of findings that explain and support that opinion. The appeal may be dismissed if the selected outside professional does not submit the requisite report within the 90 day time period. The appeal shall be dismissed if the qualified professional selected by the candidate does not submit an evaluation report recommending that the candidate meets the minimum psychological standards for appointment as a peace officer. Upon timely receipt of a positive evaluative opinion and report from the selected outside professional, the appeal shall be scheduled for review.

NOTE: Authority cited: Sections 18211, 18213 and 18701, Government Code.
Reference: Section 18670, Government Code.

§ 172.44.10. Retention of Psychological Screening ~~Testing Materials.~~ Records.

~~All~~ The board shall retain all psychological screening testing materials ~~shall be retained~~, written reports and related records for a minimum of five years ~~and~~. These records shall be the exclusive property of the board. Confidentiality of these materials and related information shall be maintained consistent with laws governing the collection, maintenance, and release of medical and psychological information, including but not limited to the Information Practices Act of 1977 (Title 1.8 of Division Third, Part 4 of the Civil Code, commencing with sSection 1798) and the Confidentiality of Medical Information Act (Part 2.6 of Division First of the Civil eCode, commencing with sSection 56).

NOTE: Authority cited: Sections 18211, 18213 and 18701, Government Code.
Reference: Section 18931, Government Code.



MEMORANDUM

Date: February 18, 2005

To: Members of the State Personnel Board

From: Karen J. Brandt, Senior Staff Counsel
State Personnel Board

Reviewed: Elise S. Rose, Chief Counsel
State Personnel Board

Subject: PSC No. 04-04: Appeal of the Secretary of State from the Executive Officer's October 15, 2004 Disapproval of a Contract with Renne & Holtzman Public Law Group upon the Review Request Submitted by the California Attorneys, Administrative Law Judges and Hearing Officers in State Employment

REASON FOR HEARING

The Secretary of State (SOS) has appealed from the Executive Officer's October 15, 2004 decision disapproving SOS's Contract (Contract) with Renne & Holtzman Public Law Group (Renne) for legal services. The Executive Officer reviewed the Contract at the request of the California Attorneys, Administrative Law Judges and Hearing Officers in State Employment (CASE). (A copy of the Executive Officer's decision is attached hereto as Attachment 1.) Renne's motion to intervene as a party in this appeal has been granted.

BACKGROUND

The Contract calls for legal services to be provided to SOS by Randy Riddle (Riddle), SOS's former Chief Counsel, who began working for Renne after he left SOS. According to SOS, the Contract is authorized under Public Contract Code section 10411, subdivision (b), which permits a contract for the continuation of a government attorney's services on matters in which he or she was involved prior to leaving state service. SOS states that the services under the Contract are limited solely to those matters in which Riddle was involved as SOS's Chief Counsel prior to leaving state service, including assisting the Attorney General's Office (AGO) in formulating SOS's defense in *American Association of People with Disabilities, et al. v. Shelley, et al.*, providing legal advice to SOS on the use of electronic voting systems for the

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November election, and providing legal guidance to SOS and the AGO in the investigation of a false claims case involving Diebold Elections Systems, Inc. Riddle has not performed any work under the Contract since August 6, 2004, and no further expenditures under the Contract are currently contemplated.

PROCEDURAL HISTORY

By letter dated September 13, 2004, pursuant to Government Code section 19132 and SPB Rule 547.59 et seq., CASE asked SPB to review the Contract for compliance with Government Code section 19130, subdivision (b).

On September 24, 2004, SOS submitted its response to CASE's review request.

On October 4, 2004, CASE submitted its reply to SOS's response.

The Executive Officer issued his decision disapproving the Contract on October 15, 2004. (Attachment 1)

APPEAL BRIEFS

On November 15, 2004, SOS filed an appeal to the Board from the Executive Officer's decision.

On November 23, 2004, pursuant to SPB Rule 547.68, Renne moved to intervene in the appeal. Renne's motion was granted on November 29, 2004.

SOS filed its opening brief on December 31, 2004. (Attachment 2)

Renne filed its opening brief on December 29, 2004. (Attachment 3)

CASE filed its response on January 21, 2005. (Attachment 4)

Renne filed its reply on February 3, 2005. (Attachment 5)

ISSUES

This appeal presents the following issues for the Board's review:

- (1) Is the Board bound by Public Contract Code section 10411, subdivision (b) to approve the Contract?
- (2) Is the Contract authorized under Government Code section 19130, subdivision (b)(3)?

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- (3) May SOS and Renne assert that the Contract is authorized under Government Code section 19130, subdivision (b)(10) if they did not assert that subdivision before the Executive Officer?
- (4) If so, is the Contract authorized under Government Code section 19130, subdivision (b)(10)?

SUMMARY OF POSITIONS

The parties' full arguments on these issues are contained in the Attachments and the Board's file. Set forth below is a summary of their arguments.

Public Contract Code section 10411, subdivision (b)

Public Contract Code section 10411, subdivision (b) provides:

For a period of 12 months following the date of his or her retirement, dismissal, or separation from state service, no person employed under state civil service or otherwise appointed to serve in state government may enter into a contract with any state agency, if he or she was employed by that state agency in a policymaking position in the same general subject area as the proposed contract within the 12-month period prior to his or her retirement, dismissal, or separation. The prohibition of this subdivision shall not apply to a contract requiring the person's services as an expert witness in a civil case or to a contract for the continuation of an attorney's services on a matter he or she was involved with prior to leaving state service.

SOS's and Renne's Position

SOS asserts that the exception set forth in Public Contract Code section 10411, subdivision (b) precisely describes the Contract, which was approved by the Department of General Services (DGS). The Contract calls for Riddle to provide legal advice pertaining to complex and intricate legal issues to which he was assigned prior to leaving state service. Riddle provided legal advice to SOS pursuant to the Contract for only as long as necessary to ensure that the matters in which he had been involved were successfully concluded or that SOS's legal staff who succeeded him had gained sufficient familiarity with the issues to go forward without him. His services to the state pursuant to the Contract lasted for just 3 months and were specifically limited to matters he handled prior to leaving state service.

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Renne asserts that the Executive Officer has no authority to determine whether Public Contract Code section 10411, subdivision (b) may provide independent authorization for the Contract separate from Government Code section 19130. The Board lacks jurisdiction to disregard a statute that independently authorizes a state agency to contract with outside legal counsel. SPB must respect the will of the Legislature, which gave SPB no authority to review section 10411(b) or pass judgment on it.

Pursuant to Article III, section 3.5 of the California Constitution, SPB cannot refuse to enforce section 10411(b), even if SPB might believe it is unconstitutional. That constitutional amendment precludes the Board from determining that SOS and DGS are not authorized to approve contracts let in compliance with section 10411(b).

The Board must either reconcile section 10411(b) with Government Code section 19130, if it can, or if it cannot, the Board must approve the Contract and leave the issue to be reviewed by the courts. Because section 10411(b) is a later-enacted, more specific statute, it must prevail over Government Code section 19130. Moreover, the language of Government Code section 19130 should not be construed to nullify the will of the Legislature. The Executive Officer's disregard of section 10411 nullifies the will of the Legislature expressly stated in that section. The Executive Officer had no authority to disapprove the Contract that is independently justified by a statute over which SPB has no jurisdiction.

CASE's Position

CASE argues that section 10411(b) does not provide authorization for SOS to contract out civil service work apart from Government Code section 19130. What section 10411(b) provides is an exception to the general prohibition that for 12 months after a state employee leaves a state agency, that state agency cannot enter into a contract with that employee if that employee was employed in a policymaking position in the same general subject area as the proposed contract. If SOS can justify the Contract under section 19130(b), then the exception in section 10411(b) would allow SOS to enter into the Contract within 12 months of Riddle's separation. SOS recognized this when it stated, in its contract transmittal to DGS, that the contract was justified under section 19130(b)(3) "as allowable under PCC 10411(b)."

SOS's reliance upon section 10411(b), alone, does not prove compliance with section 19130(b). Even assuming that section 10411(b) does provide separate authorization to contract out civil service work, SPB still has authority to review the Contract for compliance with section 19130(b). CASE is not requesting that SPB review the Contract for compliance with section 10411(b). If that section does provide separate authorization to contract out, CASE can challenge the constitutionality of that section in court. There is nothing in section 10411(b) that pre-empts SPB's review of the Contract for compliance with section 19130(b). SOS relied upon section 19130(b)(3) to justify

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the Contract. SPB must, therefore, determine whether the Contract is justified under that section.

Executive Officer's Decision

The issues that Renne has raised on appeal with respect to section 10411(b) were not argued before the Executive Officer. With respect to the arguments made by SOS in its initial response to CASE's review request, the Executive Officer found that:

"Public Contract Code section 10411, subdivision (b) prohibits a state agency from contracting with a former policymaking state employee for 12 months after that employee leaves state service. The subdivision exempts from this 12-month prohibition contracts with an attorney for continuing work on matters that he or she was working on prior to leaving state service. [Footnote omitted.]

Although Public Contract Code section 10411, subdivision (b) provides that contracts with former attorneys are not subject to the 12-month prohibition against contracting with former policymaking employees, this statutory exemption is not sufficient, in itself, to prove compliance with the state's civil service mandate. In Professional Engineers in California Government v. Department of Transportation,¹ the California Supreme Court found that an implied "civil service mandate" emanates from Article VII of the California Constitution, which prohibits state agencies from contracting with private entities to perform work that the state has historically and customarily performed and can perform adequately and competently. Government Code section 19130 codifies the exceptions to the civil service mandate that various court decisions have recognized. In order for the Contract to comply with the civil service mandate, SOS must show that it complies with Government Code section 19130."

Government Code section 19130, subdivision (b)(3)

Government Code section 19130, subdivision (b)(3) authorizes a state agency to enter into a personal services contract with a private contractor when:

The services contracted are not available within civil service, cannot be performed satisfactorily by civil service employees, or are of such a highly specialized or technical nature that the necessary expert knowledge, experience, and ability are not available through the civil service system.

¹ (1997) 15 Cal.4th 543, 547.

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SOS's and Renne's Position

With respect to Government Code section 19130, subdivision (b)(3), SOS asserts that, when Riddle was SOS's Chief Counsel, he developed both legal and policy expertise in the highly specialized and continually evolving areas of electronic voting and voting systems certification that were not available in state service. Riddle's expertise was especially needed to bring to a conclusion several outstanding matters in the months following his departure from SOS. These included important discussions with the AGO regarding the False Claims Act action that had been filed against Diebold, certification of the City and County of San Francisco's Instant Runoff Voting System, and two lawsuits brought against SOS by disability rights advocates concerning voter technology issues. Riddle had worked on all these matters before he left state service and had acquired particular knowledge and expertise with respect to them. There were no attorneys at SOS at the time Riddle left who were familiar with the complexities of voting systems, and the person who replaced Riddle as Chief Counsel did not possess Riddle's highly specialized knowledge of the legal and policy issues regarding voting systems.

Renne asserts that the Contract is justified under section 19130(b)(3) for the following reasons: First, the AGO expressly declined to represent SOS on one of the matters under the Contract – the Diebold False Claims Act lawsuit. Second, Riddle's tenure as SOS's Chief Counsel provided him with a unique combination of expert knowledge, experience, and ability regarding the ongoing critical issues facing SOS. In the summer of 2004, SOS was under an urgent deadline to implement the Secretary's decertification orders so that they did not interfere with the November election, while at the same time defending against litigation that challenged those decertification orders, and addressing the Diebold False Claims Act lawsuit and the certification of the San Francisco IRV system. During this period, no other civil service attorney possessed Riddle's extensive knowledge, experience and expertise in these complex, highly sensitive issues. The new Chief Counsel asked Riddle to provide the contracted legal services because the attorneys then employed at SOS lacked the experience and expertise possessed by Riddle.

CASE's Position

CASE asserts that Riddle served as SOS's Chief Counsel for less than one year, from May 5, 2003 to April 30, 2004. He then joined Renne and entered into the Contract with SOS effective May 1, 2004. While Riddle's declaration states that, under the Contract, he provided assistance, advice and review on various matters, it does not specifically describe exactly what Riddle did on those matters that could not be done by civil service employees.

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As Chief Counsel for SOS and a civil service employee, Riddle had the knowledge, skills, expertise, experience and ability needed to perform the contracted work. Therefore, there existed civil service job classifications through which SOS could appoint or retain employees with the knowledge, skills expertise, experience and ability needed to perform the contracted work. SOS has offered no information that it made any effort to find civil service attorneys who could perform the contracted work. Apparently, Riddle's decision to leave was not a spur of the moment decision and a successor Chief Counsel had already been selected. Nevertheless, there is no indication that SOS made any effort to have the work performed by civil service attorneys.

Executive Officer's Decision

With respect to Government Code section 19130, subdivision (b)(3), the Executive Officer found that:

"As the Board stated in Department of Pesticide Regulation,² in order to justify a contract under Government Code section 19130, subdivision (b)(3), a state agency must show that the contracted services are not available through the civil service system; i.e., there are no existing civil service job classifications through which the state agency could appoint or retain employees with the knowledge, skills, expertise, experience or ability needed to perform the required work. Government Code section 19130, subdivision (b)(3) does not apply when the services could be performed by an employee retained through the civil service system, but the state agency does not currently have employed a state employee who has the necessary experience and expertise.

From the information provided by the parties, it is clear that Riddle, while he was employed by SOS as its Chief Counsel in a Career Executive Assignment,³ had the knowledge, skills, expertise, experience and ability needed to perform the contracted work. This information shows that the contracted services are available through the civil service system. While it may have been helpful for SOS to retain Riddle's knowledge and expertise after he left his position as Chief Counsel, SOS has not provided sufficient information to show that contracting for the continuation of the same legal

² (2002) PSC No. 01-09 at pp. 12-13.

³ As set forth in Government Code section 18547, a "career executive assignment" is "an appointment to a high administrative and policy influencing position within the state civil service in which the incumbent's primary responsibility is the managing of a major function or the rendering of management advice to top-level administrative authority."

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services that Riddle was able to perform while he was employed by the state is justified under Government Code section 19130, subdivision (b)(3)."

CASE's Objection to New Justification on Appeal Not Raised before the Executive Officer

CASE objects to SOS and Renne raising for the first time on appeal the assertion that the Contract is justified under Government Code section 19130, subdivision (b)(10). CASE asserts that a department is supposed to determine the justification for contracting out before entering into the contract, not after the contract has been challenged or, as occurred in this matter, after SPB's Executive Officer has disapproved the contract. CASE asks the Board to follow the rulings it made in Department of Pesticide Regulation (2002) PSC No. 01-09, p. 7-11 , and Department of Parks and Recreation (2002) PSC No. 02-01, pp. 6-7, and not consider any subdivision other than (b)(3) as authorization for the Contract.

In footnote 1 of its reply, Renne argues that the Board should reject "this highly technical defense, and instead determine this case on the merits."

Government Code section 19130, subdivision (b)(10)

Government Code section 19130, subdivision (b)(10) authorizes a state agency to enter into a personal services contract with a private contractor when:

The services are of such an urgent, temporary, or occasional nature that the delay incumbent in their implementation under civil service would frustrate their very purpose.

SOS's and Renne's Position

SOS argues that Riddle's services were temporary. His knowledge and expertise were needed for the purpose of concluding several highly specialized matters in which he had been involved. When those matters were concluded, or when his particular expertise was no longer needed, his services ceased. Riddle provided services under the Contract for only 3 months.

Renne argues that the Contract is justified under subdivision (b)(10), because Riddle's services were intended to address an urgent, temporary need caused by two upcoming elections. The Secretary signed orders decertifying touchscreen systems on April 30, 2004. Because of the imminence of the November 2004 presidential election, SOS faced a daunting, unprecedented task of ensuring that the orders were fully implemented in time for the election. This urgent timeframe did not provide SOS with the luxury to bring in novice counsel to struggle with these complex and sensitive

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issues. Because of this urgency, SOS was compelled to use the services of its former Chief Counsel who had assisted in drafting the orders, had intimate knowledge of the complex factual, legal and policy issues involved, and could provide the needed legal advice without an extended learning curve.

CASE's Position

CASE asserts that SOS has not shown that the Contract was temporary because the term of the Contract is one year – from May 1, 2004 through April 30, 2005. If the Contract was intended to be for only 3 months, why hasn't SOS taken any action to terminate the Contract, which still runs through April 30, 2005.

CASE asserts that Renne has not shown that the Contract was urgent because it has not described what decisions had to be made urgently or what decisions Riddle was consulted about or involved in that were urgent. SOS did not consider the Contract to be urgent because it has never relied upon "urgency" as the justification for the Contract.

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(916) 653-0429 OR
TDD (916) 654-2360.**



MEMORANDUM

Date: February 18, 2005

To: Members of the State Personnel Board

From: Karen J. Brandt, Senior Staff Counsel
State Personnel Board

Reviewed: Elise S. Rose, Chief Counsel
State Personnel Board

Subject: PSC No. 04-05: Appeal of the California Attorneys, Administrative Law Judges and Hearing Officers in State Employment from the Executive Officer's November 17, 2004 Approval of a Contract between the California Department of Education and McGeorge Law School for Special Education Mediation Conferences and Due Process Hearings

REASON FOR HEARING

The California Attorneys, Administrative Law Judges and Hearing Officers in State Employment (CASE) have appealed to the State Personnel Board from the Executive Officer's November 17, 2004 decision approving the contract (Contract) between the California Department of Education (CDE) and McGeorge Law School (McGeorge) for special education mediation conferences and due process hearings. The Contract's term is from July 1, 2004 through June 30, 2005 and its total amount is \$9,929,575.00. (A copy of the Executive Officer's decision is attached hereto as Attachment 1.)

BACKGROUND

Federal law guaranties "free appropriate public education" to all students with disabilities. To comply with federal law and obtain federal funding, states must provide certain procedural safeguards, including special education mediation conferences and due process hearings for parents and students who wish to challenge any decisions public schools may make with respect to the identification, evaluation, placement and delivery of free appropriate public education to students with disabilities.

At its meeting on March 9, 2004, the Board issued a decision in *California Department of Education and University of the Pacific, McGeorge School of Law* (2004) PSC No. 03-04, which approved an earlier contract between CDE and McGeorge for

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special education mediation conferences and due process hearings, which covered the period from June 1, 2000 through May 31, 2003.

According to CDE, after SPB approved that earlier contract, the Department of General Services (DGS) required CDE to ask the Office of Administrative Hearings (OAH) to review whether OAH could perform the special education mediation conferences and due process hearings before CDE could seek proposals from private contractors to provide those services. On May 24, 2004, OAH declined to provide special education due process hearings and mediations for the term of July 1, 2004 through June 30, 2005, because it did not have the necessary staffing, resources or training. CDE asserts that OAH's belated refusal to provide the needed services created an urgent need for the Contract.

PROCEDURAL HISTORY

By letter dated June 25, 2004, pursuant to Government Code section 19132 and SPB Rule 547.59 et seq., CASE asked SPB to review the Contract for compliance with Government Code section 19130(b).

On July 30, 2004, pursuant to SPB Rule 547.68, McGeorge moved to intervene as a party in this matter. McGeorge's request was granted on July 24, 2002.

On July 30, 2004, Protection and Advocacy, Inc. (PAI) moved to intervene as a party in this matter. CASE objected to that motion on the grounds that PAI was not a contractor and was, therefore, not permitted to intervene as a party under SPB Rule 547.68. On August 13, 2004, PAI's motion to intervene as a party was denied, but PAI was granted the opportunity to submit written comments as a member of the public.

CDE and McGeorge submitted responses to CASE's review request, and CASE submitted a reply to CDE's and McGeorge's responses.

The Executive Officer issued his decision approving the Contract on November 17, 2004. (Attachment 1)

APPEAL BRIEFS

CASE appealed from the Executive Officer's decision.

CASE filed its opening brief dated December 28, 2004. (Attachment 2)

CDE filed its response dated on January 28, 2005. (Attachment 3)¹

¹ The exhibits to this response are not attached, but will be available at the Board meeting.

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McGeorge filed its response dated January 28, 2005. (Attachment 4)

PAI submitted public comments dated January 28, 2005. (Attachment 5)

ISSUE

This matter presents the following issue for the Board's review:

Is the Contract justified under Government Code section 19130, subdivision (b)(10)?²

SUMMARY OF POSITIONS

The parties' full arguments on these issues are contained in the Attachments and the Board's file. Set forth below is a summary of their arguments.

Government Code section 19130, subdivision (b)(10)

Government Code section 19130, subdivision (b)(10) authorizes a state agency to enter into a personal services contract with a private contractor when:

The services are of such an urgent, temporary, or occasional nature that the delay incumbent in their implementation under civil service would frustrate their very purpose.

CASE's Position

The evidence presented in this matter shows that the contracted special education due process hearings and mediations are civil service work that should be performed by OAH. However, OAH is unable to perform this work because it has not been given sufficient resources to do so. The California Supreme Court and this Board have recognized that the state has the responsibility to provide adequate funding for the civil service and cannot understaff to create contracting out situations. The Executive

² In the written arguments filed with the Executive Officer, McGeorge asserted that SPB was bound by Education Code section 56504.5 to approve the Contract. Footnote 2 in the Executive Officer's November 17, 2004 decision stated that,

Because the Contract is authorized under Government Code section 19130(b)(10), there is no need to address McGeorge's assertion that the Contract is also authorized under Education Code section 56504.5. In *California Department of Education and University of the Pacific, McGeorge School of Law* (2004) PSC No. 03-04 at pp. 5-9, the Board made clear that it does not have jurisdiction to review a challenged contract for compliance with Education Code section 56504.5.

McGeorge did not appeal to the Board from the Executive Officer's determination on this issue.

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Officer's decision does not address the propriety of approving outside contracting when the state has created the very conditions relied on to support the Contract. The "urgency" for the Contract is the direct result of the state's failure to provide OAH with adequate resources to perform the work. OAH "refused" to perform the work because it has not been given adequate resources to do so. Unless the Board disapproves the Contract and the state redirects the funds to OAH, OAH will never have the resources to obtain the staff to perform the special education due process hearings and mediations.

CDE's and McGeorge's Position

CDE asserts that CDE was not notified of OAH's inability to perform the contracted services until May 24, 2004. Because the previous contract was due to expire on June 30, 2004, it was necessary for CDE to enter into an urgency contract with McGeorge for the period from July 1, 2004 through June 30, 2005 to ensure that the state would be able to provide the due process hearings and mediations required under federal law in order to continue to receive over \$1 billion in federal funding. CDE did not create and is not responsible for the conditions that gave rise to its urgent need to contract with McGeorge. If CDE did not have a system in place on July 1, 2004 for providing due process hearings and mediations, it would have put in jeopardy California's eligibility to receive over \$1 billion in federal funds.

McGeorge asserts that the urgent need for the Contract is indisputable: California has over 700,000 special education students and the federal government provides over \$1 billion to the state to ensure that these students obtain a free appropriate public education. The state risks losing those federal funds if there is any interruption in the services mandated by the IDEA that McGeorge is providing. The state also risks the disruption of the lives of thousands of families, children, schoolteachers and administrators. It is undisputed that OAH refused to perform the services required by this Contract. CDE did not cause OAH's refusal to perform or create an "artificial need" for the Contract. CDE has no more authority than the Board to compel OAH to perform the contracted services. The Board should not disapprove the current Contract based upon speculation about whether civil servants might in the future be both able and willing to perform the required services; it must examine only the facts and circumstances as of the time of contracting.

Executive Officer's Decision

With respect to Government Code section 19130, subdivision (b)(10), the Executive Officer found:

"The federal Individuals With Disabilities Education Act (IDEA), 20 U.S.C. section 1400 et seq., mandates that, in order to receive federal financial assistance, a state must have in effect a policy that guaranties to all children with disabilities the right to a free appropriate public education.

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Under the IDEA, every special education student is entitled to an Individual Education Program (IEP), which is negotiated annually between school officials and the student's parents. If a dispute arises as to a student's IEP, the state must offer the parents an administrative process that provides for a special education mediation conference and a due process hearing before an independent, impartial hearing officer to resolve that dispute within 45 days.

According to the documents submitted in this matter, California has over 700,000 special education students. The federal government provides over \$1 billion in financial assistance to the state to ensure that these students obtain a free appropriate public education. If there is any interruption in the special education mediation conferences and due process hearings mandated by the IDEA, the state risks losing its federal financial assistance. CDE, McGeorge and PAI assert that OAH's refusal to provide the contracted services in the current fiscal year created an urgent need that justified the Contract.

CASE asserts that CDE is not contracting because of any "urgency"; it is contracting because OAH has not been provided sufficient funds to obtain the necessary staff to perform the contracted services. According to CASE, unless the state redirects the contract funds from McGeorge to OAH, OAH will never have the resources to obtain the specialized expertise to perform the special education due process hearings and mediations. CASE argues that the civil service mandate recognized by the California Supreme Court in Professional Engineers in California Government v. Department of Transportation (1997) 15 Cal.4th 543, forbids the Contract because OAH could perform the work adequately and competently if only it were sufficiently funded.

For the current fiscal year, OAH refused to perform for CDE the special education mediations and due process hearings mandated under federal law for students with disabilities. While OAH, in the future, may be able to provide those services adequately and competently if OAH is fully funded, for this fiscal year, in order to ensure that parents of special needs students continued to obtain, without interruption, all the administrative process to which they are legally entitled and the state did not risk losing up to \$1 billion in federal finds, CDE had an urgent need for McGeorge's services that could not have been met by OAH through the civil service process. I, therefore, find that the Contract for this fiscal year is authorized under Government Code section 19130(b)(10). "

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STATE PERSONNEL BOARD

NON-HEARING CALENDAR

RE: BOARD CALENDAR MARCH 8-9, 2005

SPB Calendar: Mar 8 – 9, 2005

TO: STATE PERSONNEL BOARD

FROM: PHYLLIS BONILLA, Staff Personnel Program Analyst
Policy and Operations Division

REVIEWED BY: JOSIE FERNANDEZ, Program Manager
Policy and Operations Division

SUBJECT: Proposed revisions to the Licensing Program Supervisor and Licensing Program Manager classifications; retitle the Licensing Program Supervisor and Licensing Program Manager class to Licensing Program Manager I and Licensing Program Manager II, respectively; establishment of the class of Licensing Program Manager III with a 12-month probationary period; and reallocations of incumbents in the class of Staff Services Manager II and Staff Services Manager III.

SUMMARY OF ISSUES:

The California Department of Social Service (CDSS) is requesting to revise and retitle the Licensing Program Supervisor and Licensing Program Manager classifications and establish a new managerial level Licensing Program Manager class. The proposal will address the need for a classification series that provides a promotional path for employees committed to a career in the Community Care Licensing Program. This expanded career ladder will attract and retain highly qualified individuals interested in promoting the health, safety and quality of life of each person in community care. This proposal will eliminate the use of the Staff Services Manager II and Staff Services Manager III classifications in the Community Care Licensing Program.

CONSULTED WITH:

NATALIE SMITH, California Department of Social Services
DEBRA THOMPSEN, California Department of Social Services
BLANCHE HARBRIDGE-WRIGHT, California Department of Social Services
MARGIE IMAI, Department of Personnel Administration
JENNIFER ROCHE, State Personnel Board

CLASSIFICATION CONSIDERATIONS:

See attached proposal.

Licensing Program Manager
SPB Calendar: March 8 – 9, 2005

RECOMMENDATIONS:

1. That the titles of the following classes be changed as indicated; and the proposed revised specification for these classes appearing in the Licensing Program series specification shown in this calendar be adopted:

<u>From</u>	<u>To</u>
Licensing Program Supervisor	Licensing Program Manager I
Licensing Program Manager	Licensing Program Manager II

2. That the class of Licensing Program Manager III be established; the proposed specification for the class appearing in the Licensing Program series specification shown in this calendar be adopted; and the probationary period for the class be 12 months.

3. That the following resolutions be adopted :

- (a) WHEREAS the State Personnel Board on March 8 – 9, 2005, revised the class of Licensing Program Manager II; and the duties and responsibilities of this class are substantially included in the existing class of Staff Services Manager II (Supervisory); and

WHEREAS the knowledge and abilities required for the Licensing Program Manager II were substantially tested for in the examination for the class of Staff Services Manager II (Supervisory): Therefore be it

RESOLVED, That any person with civil service status in the Community Care Licensing Division performing the duties of a Regional Manager in the class of Staff Services Manager II (Supervisory) on April 1, 2005, shall be reallocated to the class of Licensing Program Manager II and hereby granted the same civil service status in that class without further examination.

- (b) WHEREAS the State Personnel Board on March 8 – 9, 2005, established the class of Licensing Program Manager III; and the duties and responsibilities of this class are substantially included in the existing class of Staff Services Manager III; and

WHEREAS the knowledge and abilities required for the Licensing Program Manager III were substantially tested for in the examination for the class of Staff Services Manager III: Therefore be it

Licensing Program Manager
SPB Calendar: March 8 – 9, 2005

RESOLVED, That any person with civil service status in the Community Care Licensing Division performing the duties of an Assistant Program Administrator in the class of Staff Services Manager III on April 1, 2005, shall be reallocated to the class of Licensing Program Manager III and hereby granted the same civil service status in that class without further examination.

B. CLASSIFICATION CONSIDERATIONS

BACKGROUND

1. Provide some historical perspective about the organizational setting of the subject classes and the needs that this request addressed.

In 1983, the Licensing Program Analyst (LPA), Licensing Program Supervisor (LPS) and Licensing Program Manager (LPM) classifications were established. These classifications were established to reflect the program change from a social services base to a regulatory and enforcement role. Prior to the Licensing Program Series being established the department used the Staff Services Manager (SSM) Series to supervise the district offices. After the establishment of the LPM classification, the department continued to use the SSM II level on a limited basis for their larger district offices.

In July 2001, CDSS submitted a Licensing Program Manager classification proposal to DPA for review and approval. The CDSS had been using the Staff Services Manager II (Supervisory) classification for the District Manager positions in the Community Care Licensing Division on an exceptional basis and was directed by DPA to explore revisions to the existing Licensing Program Manager (LPM) classification. Unfortunately, the timing was such that the classification proposal was caught between bargaining and the State budget/hiring freeze. On October 25, 2001 DPA Classification and Compensation Division called for a moratorium on classification and pay issues and the LPM classification proposal was returned to CDSS until such time the fiscal conditions improved. As an interim measure, to temporarily meet program staffing and operational needs, DPA allowed CDSS to continue the use of the SSM II class on an exceptional basis. Please note these SSM incumbents held status in the LPM classification immediately prior to their SSM appointments; Community Care Licensing did not recruit SSM candidates outside of the Program.

Over the last several years, the Community Care Licensing Program has seen a number of major program changes that have increased the complexity and responsibilities of managing the different programs in the community care licensing arena. These changes have been based in new statutory, regulatory and policy requirements and have increased the sensitivity and responsibility of the LPSs and LPMs. These include:

- 1) Children's Residential: In 1998 Senate Bill (SB) 933 brought new requirements for group home monitoring, licensing of new group homes, standards for and the evaluation of nonprofit boards of directors, board of director accountability, and investigation of complaints against foster family agency certified family homes. In addition, SB 933 changed criminal record background clearance requirements for all licensing programs.

- 2) Adult Care: Legislation has now allowed hospice care. Regulations increased levels of health care services allowed and required new procedures for health care relocation appeals and procedures.
- 3) Senior Care: Legislation has now allowed hospice care. Regulations added dementia waiver, delayed egress, health care relocation appeals, and assisted living responsibilities to the program.
- 4) Child Care: CAL-WORKS legislation added capacity building for child care to support employment. In 1998 the California Children and Families Act, Prop. 10, added new training requirements for child care providers and preschool staff. The Act also requires support for and coordination between state and local agencies to provide child care services to children with disabilities and other special needs and their families through referrals, access and service delivery. Recent media attention to the issue of criminal record exemptions for child care staff led to the development of new and complex requirements relating to background investigations, the granting of exemptions, and notification to parents about people with exemptions. In addition, child care facilities have become more complex with new child care center categories for toddlers, school-age children and the inclusion of medically fragile children.

Prior to the July 2002 reorganization, Community Care Licensing Division (CCLD) structure was organized along geographic boundaries. There was no single organizational unit responsible for each licensing program. There were four regional managers responsible for overseeing the licensing and monitoring of all four major licensing programs. Each regional manager was responsible for the operations of the district office within that manager's region. There were 23 district offices and a number of small satellite offices that provide direct service to licensees and the public. The regional offices were located in Sacramento (Northern Region), San Bruno (Coastal Region), Culver City (Los Angeles Region) and Carlsbad (Southern Region). The regional offices were responsible for seeing that district offices carry out the licensing and monitoring functions according to established regulations, policies and procedures.

Under the current CCLD restructure as of July 2002, district offices are grouped by program responsibility rather than by region. Therefore, the district offices are now referred to as regional offices and the regional offices are now referred to as program offices. This resulted in a complete separation of the child care, adult, senior and children's residential program by management structure. The previous four regional managers who were responsible for all 20 licensing categories now have become statewide program administrator, each responsible for one of the four major licensing programs. Each program administrator oversees a number of regional managers designated as being responsible for that program. Each CCLD regional office is designated a regional office in one of the four programs: Child Care; Adult Care; Senior Care; and Children's Residential.

The restructuring also completed the implementation of the legally mandated separation of child care from the residential licensing programs. Assembly Bill 3087 (Statutes of 1992) mandated that CCLD separate child care program functions from residential program functions. Most regional offices were split into separate child care and residential licensing office in 1994. However, three district offices were too small to split into separate offices. In addition, the child care policy and advocacy functions were not separated in the organizational changes occurring in 1994, even though this was also a direction set by AB 3087. Through the restructuring, CCLD separated child care from residential programs in the three district offices that still had mixed programs. In addition, the restructuring provided a means of finally separating child care policy and advocacy from residential program policy.

The Northern Regional Manager (CEA) became the Child Care Program Administrator. The Child Care Program Administrator oversees the statewide child care program and assumes the child care advocacy and policy development responsibilities. The Child Care Program is one of the largest programs and is divided into Child Care North and Child Care South, overseen by two Assistant Program Administrators (currently SSMs III). Child Care North includes Fresno, Sacramento, Chico, Bay Area, San Jose, and Peninsula. Child Care South includes Inland Empire, Los Angeles Northwest, Los Angeles East, Mission Valley, Orange and Central Coast. Child care advocates continue to be outstationed in each child care regional office to provide this resource to the child care program and report to the Child Care Program Administrator's office, as required by law.

The Los Angeles Regional Manager (CEA) became the Children's Residential Program Administrator. The Los Angeles West, Los Angeles East, Inland Empire, San Jose and Sacramento district offices became the Children's Residential regional offices. Each of these offices has 3 to 4 local units in other program offices.

The Southern Regional Manager (CEA) became the Adult Care Program Administrator. The Orange, Fresno, Oakland and the new Los Angeles Tri-County district offices became the Adult Care regional offices. Each of these offices has 3 to 4 local units located in other program offices.

The Coastal Regional Manager (CEA) became the Senior Care Program Administrator. The Los Angeles Northern Valley, San Francisco Bay, Redwood Empire, and San Diego district offices became the Senior Care regional offices.

The regional offices are responsible for licensing 59,534 child day care; 21,543 children's residential facilities, 5717 adult care; and 6,571 senior care facilities as of December 2003. The regional office licensing responsibilities, as specified in the Community Care Licensing Manual, Title 22, Divisions 6 and 12, include but are not limited to:

- Provide orientations for prospective licensees
- Approve or deny facility license applications

- Monitor the health and safety of clients in licensed facilities through ongoing facility visits
- Investigate complaints of statutory and regulatory violations made against care providers, including reports of possible physical and sexual abuse children and adults
- Evaluate the need for and approve specific facility corrective actions
- Provide technical assistance, training and outreach to providers, agencies, political entities and the community
- Develop and implement strategies to insure compliance with regulations
- Assess penalties and take appropriate administrative action to revoke or suspend facility licenses for serious violations of health and safety standards
- Provide information to the media, public and other agencies
- Work cooperatively with other community agencies serving the relevant client group

Therefore, the California Department of Social Services (CDSS) is proposing to revise, retitle and expand the Licensing Program Series to address the legislative changes that have occurred, the new program structure and to better meet the needs of the Community Care Licensing Program. Specifically, the department is requesting to retitle the LPS and LPM to LPM I and LPM II, respectively, revise the LPM I and LPM II classes, and establish a new managerial class of LPM III.

This proposal addresses the need for a classification series focusing on a social service program for community care facilities and one that provides a promotional path for employees committed to a career in the Community Care Licensing Program. The proposed series covers the entire scope from the entry-level analyst to all levels of management associated with the delivery of community care licensing. The expanded career ladder will attract and retain highly qualified individuals interested in promoting the health, safety and quality of life of each person in community care. This proposal will also eliminate the use of the SSM II and SSM III classifications within the Community Care Licensing Program as the Program's focus remains on its primary mission of inspecting and licensing of residential and community care facilities providing child, adult, senior, and foster care, versus the broad administrative nature of the SSM classifications.

CLASSIFICATION CONSIDERATIONS

2. What classifications do the subject classes report to?

All LPMs I report to a Regional Manager (LPM II). In the current structure the Regional Managers in the Child Care Program report to an Assistant Program Administrator (LPM III). The Assistant Program Administrators report to the Child Care Program Administrator (CEA II). The Regional Managers in the Adult, Senior, and Children's Residential programs report to their respective Program Administrators (CEA) directly.

3. Will the subject classes supervise? If so, what classes?

The LPM I directly supervises the LPAs in their unit. The LPM II directly supervises the LPMs I and indirectly supervises the LPAs. LPM I and LPM II supervises Office Services Supervisor I or II and/or Office Technicians, depending on the size of the office. The LPM III supervises the LPMs II.

4. What are the specific duties of the subject classes?

The LPMs I are the first supervisory level in the series. Incumbents supervise a group of LPAs in a regional office. They may also supervise support staff. Incumbents review staff work to ensure uniformity and conformity with policies and procedures; hold compliance conferences with facility operators; conduct quality assurance reviews of LPA's work; provide consultation and direction to staff; and may occasionally be assigned to lead and/or initiate special projects or task forces related to changes in organization, regulations, policy or procedures.

The LPM II is the second and full supervisory level in the series. Incumbents plan, organize and supervise the activities of a Community Care Licensing Program for their primary regional office and their local units in evaluating, licensing and enforcing licensing regulations for community care facilities. They develop and recommend policies and procedures to facilitate the effective operation of the Community Care Licensing Program. As managers, they are responsible for personnel management, planning and meeting workload goals, controlling specific budget allocations, and the full range of administrative work. Due to the fact that regional offices are located outside the CDSS headquarters there is an increase in responsibility for managing the physical space, purchasing local services and other duties that are not provided by a central support staff. All regional managers have the same responsibilities and receive the same level of direction regardless of their size. The Regional Managers also maintain many significant high-level working relationships including interagency groups, provider organizations, elected officials and the public.

Under the current organization structure the Regional Managers have greater responsibility and the multi-dimensional role has broadened the scope of complexity of their jobs. For example, the Northern California Senior Care Regional Program has local units in Rohnert Park, Chico, Sacramento and Stockton with a satellite office in Eureka. Geographic program responsibility encompasses 31 counties and their interrelated entities. In addition, the Regional Managers must ensure supervisory coverage not only within the Regional Office at all times but also in an outstation location.

The LPM III is the full management level in the series. Incumbents act as Assistant Program Administrators and are responsible for all the licensing and monitoring activities of the program. They plan, organize and direct the activities of the Community Care Licensing Program within their assigned geographic area; provides operational direction to the regional offices and program office staff; ensures uniform enforcement of regulations using statewide procedures and standards; reviews and recommends

appropriate administrative actions against violators; interfaces and coordinates activities with county welfare departments, local planning councils and local educational offices falling within their geographic jurisdiction.

Currently, there are two Assistant Program Administrator positions located in the Child Care Program (Child Care North and Child Care South).

5. What is the decision-making responsibility of the subject classes?

In general, LPMs at all levels have wide-ranging decision making responsibilities. These responsibilities are extensive, multi-dimensional and entail considerable scope and autonomy. The LPMs decide the appropriate action to be taken against non-compliant facilities. They are responsible for the approval or denial of licensing applications and assure the uniform delivery of services provided by the regional office. They are responsible for the approval or denial of a wide range of allowable waivers and exceptions to those regulations as needed in order to meet the specific needs of clients. They must make appropriate decisions when responding to the media or elected officials in order to protect the interests of clients in care.

The specific decision making responsibility of each LPM class is as follows:

LPM I, first line supervisors, provide consultation and direction to a group of LPAs. The LPM I review the work of LPAs to assure that their evaluations of assigned facilities are uniform and conform to established policies and procedures and makes recommendations for closure of facilities.

LPM II, second line supervisors, make region wide decisions regarding the implementation of regulations, proposed legal action against facilities, the approval or denial of license applications, license renewals, provisional licenses and notices of operation in violation of the law. The LPM II is responsible for all of the administrative decisions associated with the operation of a regional office including responsibility for the region wide recruitment and hiring of staff. These operations include procurement of office space, equipment and supplies, the protection of staff and licensing records, and the monitoring of operating, training, and travel costs to remain within budget constraints. In addition, the LPM II must ensure supervisory coverage not only within the regional office at all times but also in their assigned program local units. The LPM II is also responsible for the operation of another programs' unit(s) housed in their regional office; therefore, they are required to make operational decisions for staff that they do not have programmatic responsibility to manage.

LPM III, Assistant Program Administrators, has the decision-making responsibility for the uniform implementation and enforcement of program regulations and policies in the regional offices. The LPM III must make program wide decisions related to the maintenance of administrative policies and procedures affecting organizational structure, staffing and all management functions within the program.

6. What would be the consequence of error if incumbents in the subject classes did not perform their job? (Program problems, lost funding, public safety compromised, etc.)

The consequences are potentially catastrophic. Licensing enforcement is a high-profile state responsibility and is subject to frequent media and legislative scrutiny. Failure on the part of the LPMs to adequately oversee regulatory enforcement can result in the deaths of clients in care, with attendant liability and adverse publicity. Failure on the part of the LPMs to cultivate and maintain a cooperative relationship with providers, advocate groups, other service agencies and elected officials will result in the escalation of volatile issues to the detriment of the program and the clients in care.

7. What are the analytical requirements expected of incumbents in the subject classes?

The LPM I is responsible for the supervision of the LPAs. It is the LPAs who are directly responsible for the effective regulation of the licensed facilities assigned to their caseload. The LPM I ensures that the LPAs consistently analyze and apply licensing regulations and policies in a uniform and consistent manner.

LPM II is responsible for the supervision of the LPM I. The LPM II evaluates licensing regulations and develops and recommends policies and procedures to facilitate an effective operation of the State Community Care Licensing Program.

LPM III provides operational direction to the regional offices, ensures uniformity enforcement of regulations using statewide procedures and standards. The LPM III recommends appropriate administrative actions against violators.

8. What are the purpose, type, and level of contacts incumbents in the subject classes make?

All LPMs in this series have extensive contacts and interactions with the public and consumers on a routine basis. Incumbents have frequent contacts with clients and their families, care providers, long term care ombudsmen, child care referral agencies, placement agencies, attorneys, other governmental agencies, news media and elected officials. The LPMs must ensure that a multi-disciplinary network is created and maintained in order to minimize possible negative outcomes resulting from misperceptions or misrepresentations.

NEED FOR NEW CLASS (if necessary)

9. For New Classes Only: What existing classes were considered and why were they not appropriate?

CDSS considered the use of the SSM Series as they currently use two of the levels. However, it was determined that a classification revision and expansion of the Licensing Program Analyst /Manager Series was more appropriate based on the specialized

knowledge, skills, abilities and the program related aspects of the positions. The Department is proposing to revise and retitle the LPS and LPM classifications and establish a new managerial level in the series. The proposed classification changes will eliminate the use of the SSM series, focus on the primary mission of the program, and provide an expanded promotional path and classification structure that better meets the needs of the program.

MINIMUM QUALIFICATIONS

10. What are the proposed or current minimum qualifications of the subject class or classes and why are they appropriate?

CDSS is proposing to revise Pattern II of the Minimum Qualifications of the LPM I and LPM II classes. Currently the education requirements in Pattern II require possession of an advanced two-year degree in the field of Human Services or Behavioral Sciences, such as a Master's Degree in Social Work and Counseling. CDSS is proposing to expand the field to include Early Childhood Education, Child Development, and Gerontology as these fields are closely related.

As previously stated, the focus of the classification series remains program specific, and the proposed Minimum Qualifications reflect the need for education and/or experience in community care facilities. The proposed Minimum Qualifications do not reflect the board nature of the SSM classes which are typically used as subject-matter generalists in a broad range of fiscal, management analysis, human resources and other related administrative settings:

LICENSING PROGRAM MANAGER I

Either I

One year of experience in California state service performing the duties of a Licensing Program Analyst, Range D.

Or II

Experience: Two years of increasingly responsible professional experience involving analytical, evaluative, or enforcement duties for a social service program for children, adults, or the elderly in need of care and supervision as provided in community care facilities. and

Education: Possession of an advanced two-year degree in the field of Human Services or Behavioral Sciences, such as a Master's Degree in Social Work, Counseling, Early Childhood Education, Child Development, Gerontology or other related field.

(Advanced degrees must include 60 semester or 90 quarter units and appropriate field service experience to meet the educational requirement.)

Or III

Experience: Four years of increasingly responsible professional experience involving analytical, evaluative, or enforcement duties for a social service program for children, adults, or the elderly in need of care and supervision as provided in community care facilities. and

Education: Equivalent to graduation from college.

LICENSING PROGRAM MANAGER II

Either I

One year of experience in California state service performing the duties of a Licensing Program ~~Supervisor~~ Manager I.

Or II

Experience: Three years of increasingly responsible experience involving analytical, evaluative, or enforcement duties for a social service program for children, adults, or the elderly in need of care and supervision as provided in community care facilities (one year of which must have been in a supervisory capacity). and

Education: Possession of an advanced two-year degree in the field of Human Services or Behavioral Sciences, such as a Master's Degree in Social Work, Counseling, Early Childhood Education, Child Development, Gerontology or other related field.

(Advanced degrees must include 60 semester or 90 quarter units and appropriate field service experience, to meet the educational requirement.)

Or III

Experience: Five years of increasingly responsible professional experience involving analytical, evaluative, or enforcement duties for a social service program for children, adults, or the elderly in need of care and supervision as provided in community care facilities (one year of which must have been in a supervisory capacity). and

Education: Equivalent to graduation from college.

The proposed minimum qualifications for the LPM III include an inside promotional pattern requiring one year of experience as a LPM II. In addition, there are two outside patterns with the requisite experience and education. The proposed Minimum Qualifications are similar to other CDSS managerial level classes and the servicewide class of SSM III. These qualifications are appropriate to ensure successful job performance, and are consistent with other managerial classification requirements. The proposed minimum qualifications are as follows:

LICENSING PROGRAM MANAGER III

Either I

One year of experience in California state service performing the duties of a Licensing Program Manager II.

Or II

Experience: Four years of increasingly responsible experience involving analytical, evaluative, or enforcement duties for a social service program for children, adults, or the elderly in need of care and supervision as provided in community care facilities (two years must have been in a supervisory capacity). and

Education: Possession of an advanced two-year degree in the field of Human Services or Behavioral Sciences, such as a Master's Degree in Social Work, Counseling, Early Childhood Education, Child Development, Gerontology or other related field. (Advanced degrees must include 60 semester or 90 quarter units and appropriate field service experience, to meet the educational requirement.)

Or III

Experience: Five or more years of increasingly responsible professional experience involving analytical, evaluative, or enforcement duties for a social service program for children, adults, or the elderly in need of care and supervision as provided in community care facilities (three years of which must have been in a supervisory capacity). and

Education: Equivalent to graduation from college.

PROBATIONARY PERIOD

11. If a probationary period other than six months is proposed, what is the rationale?

The current probationary period for the classes of LPM I and LPM II are 12 months. Both classes are supervisory and no changes are proposed. The proposed LPM III classification is managerial and a 12-month probationary period is being proposed. This is consistent with all managerial classes.

STATUS CONSIDERATIONS

12. What is the impact on current incumbents?

The existing classifications of LPS and LPM will be retitled to LPM I and LPM II, respectively. There is no impact to the current incumbents in these classifications. Incumbents in Regional Manager positions with permanent status in the classification of SSM II (Supervisory) classification will be reallocated to the revised classification of LPM II.

The two Child Care Assistant Program Administrators (North and South) currently allocated to the SSM III classification will be reallocated to the proposed new classification of LPM III.

13. Will current employees move by examination, transfer, reallocation, split-off, etc.? Explain rationale.

There is no impact to the incumbents in the current classes of LPS and LPM. It is envisioned that all current employees with permanent status in the classes of SSM II (Supervisory) and SSM III will be reallocated by SPB board action to their corresponding proposed LPM classifications.

CONSULTED WITH

14. In addition to the departmental contacts listed on the cover sheet, list the names and affiliations of persons who were consulted during the development of this proposal.

Dave Dodds, Deputy Director, CCLD
Jeff Hiratsuka, Chief, Central Operations Branch
Margie Nagae, Chief, Labor Relations Bureau

CALIFORNIA STATE PERSONNEL BOARD

SPECIFICATION

LICENSING PROGRAM ANALYST Series Specification (Established July 6, 1983)

SCOPE

This series specification describes ~~three~~ four classes used exclusively within the Community Care Licensing Division of the California Department of Social Services. These classes are used for positions that perform, ~~or~~ supervise, or manage the licensing and evaluation of community care facilities. Incumbents in this series are responsible for ensuring that licensed facilities providing care and supervision meet established standards for the health and safety of those individuals served.

<u>Schem</u> <u>Code</u>	<u>Class</u> <u>Code</u>	<u>Class</u>
WL46	8223	Licensing Program Analyst
WL42	8222	Licensing Program Supervisor <u>Manager I</u>
WL40	8224	Licensing Program Manager <u>II</u>
<u>WL38</u>	<u>8220</u>	<u>Licensing Program Manager III</u>

DEFINITION OF SERIES

Incumbents in this series are responsible for the enforcement of statutes and regulations under: the Community Care Facilities Act and Foster Care Reform Protections for residential facilities serving children and adults; the Child Day Care Act and the California Children and Families Act for day care centers and family day care homes serving children; and the Residential Care Facilities for the Elderly Act for residential facilities serving persons 60 years of age or older.

The Licensing Program ~~Analyst~~ series describes classes used to perform, ~~or~~ supervise, or manage the work associated with the licensing and evaluation of community care facilities. This includes the following: review, analyze, and evaluate fiscal, administrative, and program components of applications for licensure; recommend approval or denial of licenses; make on-site visits to monitor and evaluate licensed facilities for regulatory compliance; investigate complaints, gather evidence, and document findings; recommend legal/administrative actions to be taken against facilities found to be in noncompliance; provide ongoing technical assistance to licensees, local governmental agencies, private and public organizations, and other State agencies; coordinate with all appropriate local agencies and officials to monitor the functioning of community care facilities and ensure compliance with all applicable statutes and regulations. Other responsibilities may include:

training of other professional staff and consultation with divisional and departmental staff to analyze and recommend changes in policy, procedures, and regulations affecting community care licensing.

FACTORS AFFECTING POSITION ALLOCATION

Factors affecting position allocation include supervisory and management responsibility, scope, frequency, and consequence of decisions made; degree of program and policy involvement; complexity and sensitivity of work; and independence of action.

DEFINITION OF LEVELS

LICENSING PROGRAM ANALYST

This is the entry, training, and full journey level of the series. Under supervision, incumbents may perform the more routine technical work associated with the licensing and evaluation of community care facilities; respond to complaints, appeals, and inquiries; and conduct investigations. Incumbents may be required to independently conduct the more complex and sensitive evaluations and investigations; may be responsible for implementing and coordinating orientation and training for license applicants, members of organized associations, or other staff; may serve as members of task forces or study teams to analyze divisional organization policies and intra-divisional administrative problems; and may act in a lead capacity over a small group of Licensing Program Analysts.

LICENSING PROGRAM SUPERVISOR MANAGER I

~~In a district office, supervises~~ This is the first supervisory level in the series. Under direction, incumbents supervise a group of Licensing Program Analysts in a regional office; reviews staff work to ensure uniformity and conformity with policies and procedures; holds informal conferences with facility operators; conducts quality assurance reviews of Licensing Program Analysts' work; provides consultation and direction to staff; and may occasionally be assigned to lead and/or initiate special projects or task forces related to changes in organization, regulations, policy, or procedures.

LICENSING PROGRAM MANAGER II

This is the second and full supervisor level in the series. Under general direction, of the Regional Manager, may act as a District Manager in a medium district setting, or as an Assistant District Manager in a large district office. Plans, organizes and supervises incumbents plan, organize, and supervise the activities of a Community Care Facilities Licensing Program district regional office, in evaluating, Incumbents are responsible for the evaluation, licensing, and enforcing enforcement of licensing regulations for community care facilities; develops and recommends to the Regional Manager policies and procedures designed to facilitate the effective operation of the State Community Care Facilities Licensing Program. As a Regional Manager, incumbents interface with interagency groups, provider organizations, elected officials, and the public.

LICENSING PROGRAM MANAGER III

This is the full management level in the series. Incumbents act as an Assistant Program Administrator and are responsible for the licensing and monitoring activities of the Program. Incumbent plans, organizes, and directs the activities of the Community Care Licensing Program within their assigned geographic area; provides operational direction to the regional offices and program office staff; ensures uniform enforcement of regulations using statewide procedures and standards; reviews and recommends appropriate administrative actions against violators; and coordinates activities with county welfare departments, local planning councils, and local educational offices falling within their geographic jurisdiction.

MINIMUM QUALIFICATIONSLICENSING PROGRAM ANALYST

Possession of a valid driver license of the appropriate class issued by the Department of Motor Vehicles. Applicants who do not possess a license will be admitted to the examination but must secure the license prior to appointment.

and
Either I

Education: Equivalent to graduation from college with any major, but preferably with specialization in public or business administration, accounting, economics, political or social science, or law. (Registration as a senior in a recognized institution will admit applicants to the examination, but they must produce evidence of graduation or its equivalent before they can be considered eligible for appointment.) (Work experience in the California state service may be substituted for the required education on a year-for-year basis by applicants who have at least six semester hours of college level training in public or business administration, accounting, economics, political science, statistics, or law.)

Or II

Experience: Six months of experience in the California state service performing the duties of a Personnel Technician I, Range B; Budget Technician I, Range B; Management Services Technician, Range B; or Occupational Technician (General), Range B.

Or III

Experience: One year of experience in the California state service performing the duties of a class at a level of responsibility

equivalent to a Program Technician II, Office Services Supervisor I, or Office Technician. and

Education: Twelve semester or 18 quarter units of college courses in Public or Business Administration, Accounting, Economics, Political or Social Science, English, Speech, Statistics, Law, or a closely related area.

LICENSING PROGRAM SUPERVISOR ~~SUPERVISOR~~ MANAGER I

Either I

Experience: One year of experience in the California state service performing the duties of a Licensing Program Analyst, Range D.

Or II

Experience: Two years of increasingly responsible professional experience involving analytical, evaluative, or enforcement duties for a social service program for children, adults, or the elderly in need of care and supervision as provided in community care facilities. and

Education: Possession of an advanced two-year degree in the field of Human Services or Behavioral Sciences, such as a Master's Degree in Social Work, Counseling, or other related field. (Advanced degrees must include 60 semester or 90 quarter units and appropriate field service experience to meet the educational requirement.)

Or III

Experience: Four years of increasingly responsible professional experience involving analytical, evaluative, or enforcement duties for a social service program for children, adults, or the elderly in need of care and supervision as provided in community care facilities. and

Education: Equivalent to graduation from college.

LICENSING PROGRAM MANAGER II

Either I

Experience: One year of experience in the California state service performing the duties of a Licensing Program Supervisor.

Or II

Experience: Three years of increasingly responsible experience involving analytical, evaluative, or enforcement duties for a social service program for children, adults, or the elderly in need of care and supervision as provided in community care facilities (one year of which must have been in a supervisory capacity). and

Education: Possession of an advanced two-year degree in the field of Human Services or Behavioral Sciences, such as a Master's Degree in Social Work, Counseling, or other related field. (Advanced degrees must include 60 semester or 90 quarter units and appropriate field service experience, to meet the educational requirement.)

Or III

Experience: Five years of increasingly responsible professional experience involving analytical, evaluative, or enforcement duties for a social service program for children, adults, or the elderly in need of care and supervision as provided in community care facilities (one year of which must have been in a supervisory capacity). and

Education: Equivalent to graduation from college.

LICENSING PROGRAM MANAGER IIIEither I

Experience: One year of experience in the California state service performing the duties of a Licensing Program Manager II.

Or II

Experience: Four years of increasingly responsible experience involving analytical, evaluative, or enforcement duties for a social service program for children, adults, or the elderly in need of care and supervision as provided in community care facilities (two years must have been in a supervisory capacity). and

Education: Possession of an advanced two-year degree in the field of Human Services or Behavioral Sciences, such as a Master's Degree in Social Work, Counseling, Early Childhood Education, Child Development, Gerontology, or other related field. {Advanced degrees must include 60 semester or 90 quarter units and appropriate field service experience, to meet the educational requirement.)

Or III

Experience: Broad and extensive (more than five years) of increasingly responsible professional experience involving analytical, evaluative, or enforcement duties for a social service program for children, adults, or the elderly in need of care and supervision as provided in community care facilities (three years of which must have been in a supervisory capacity). and

Education: Equivalent to graduation from college.

KNOWLEDGE AND ABILITIESLICENSING PROGRAM ANALYST

Knowledge of: Evaluation techniques; data collection methods; and analytical procedures and methods.

Ability to: Interpret, apply, and enforce laws, regulations, policies and procedures relating to the licensing of community care facilities; gather and analyze data; reason logically, identify resolutions, draw valid conclusions, make appropriate recommendations, and verbally defend a position; comprehend written material; communicate effectively; follow instructions; gain and maintain the confidence and cooperation of those contacted during the course of work;

document accurate and legally enforceable plans and reports; take effective and immediate action; accept increasing responsibility; and use community resources.

LICENSING PROGRAM SUPERVISOR MANAGER I

Knowledge of: Principles, practices, and techniques used in the administration of the Community Care Licensing Program; organization and operation of Community Care Facilities; out-of-home care for adults and children including day and residential care programs for well children, the elderly, and persons with disabilities; community resources and social organizations; provisions of the Health and Safety Code, the Social Security Act, and other State/Federal rules, regulations, and laws related to out-of-home care programs; scope and activities of public and private social service agencies; principles and practices of supervision and personnel relations; group and individual training methods; the Department's Affirmative Action Program objectives; a supervisor's role in the Affirmative Action Program and the processes available to meet affirmative action objectives.

Ability to: Plan, organize, and direct, ~~and control~~ the work of others; analyze problems arising out of the operation of the Community Care Licensing Program; secure accurate data and record and report such data systematically; develop and evaluate alternatives; reach practical and logical conclusions and put into practice effective changes; utilize community resources; interpret provisions of the Health and Safety Code, Social Security Act, and other State/Federal rules, regulations, and laws pertaining to out-of-home care programs; participate effectively in conferences and interviews; establish and maintain effective working relationships; communicate effectively; produce clear, accurate, and concise reports; analyze situations accurately and take effective action; utilize and apply effectively required technical knowledge; gain and maintain the confidence and cooperation of those contacted during the course of work; review and edit reports; establish and maintain priorities; develop and effectively utilize all available resources; work effectively under pressure dealing with sensitive issues; effectively train personnel; provide consultation to the staff, license applicants, and licensees; effectively contribute to the Department's affirmative action objectives and effectively contribute to promoting equal opportunity in employment and maintain a work environment that is free of discrimination and harassment.

LICENSING PROGRAM MANAGER II

LICENSING PROGRAM MANAGER III

Knowledge of: Principles and techniques of management, effective supervision, staff development; principles, practices, and techniques used in the administration of the Community Care Licensing Program; organization and operation of Community Care Facilities; laws, regulations, and policies pertaining to the Community Care Licensing Program and out-of-home care programs; objectives, methods, and organization of local social services; ~~the Department's Affirmative Action Program objectives; a manager's role in the Affirmative Action Program and the processes available to meet affirmative action objectives~~ and a manager's responsibility for promoting equal opportunity in hiring, employee development, and promotion, and for maintaining a work environment which is free of discrimination or harassment.

Ability to: Plan, organize, and direct, ~~and control~~ a Community Care Licensing organizational unit responsible for regulatory administration; reason logically and creatively and utilize analytical techniques to resolve complex program and managerial problems; develop and evaluate alternatives; analyze data and present ideas and information effectively; gain and maintain the confidence and cooperation of those contacted during the course of work; review

and edit reports; establish and maintain priorities; develop and effectively utilize all available resources; work effectively under pressure dealing with sensitive issues; ~~effectively contribute to the Department's affirmative action objectives~~ and effectively contribute to promoting equal opportunity in employment and maintain a work environment that is free of discrimination and harassment.

ADDITIONAL DESIRABLE QUALIFICATIONS

ALL LEVELS:

Demonstrated ability to act independently with open-mindedness, flexibility, and tact; willingness to travel to various facilities; and the ability to act effectively under pressure.

CLASS HISTORY

<u>Class</u>	<u>Date Established</u>	<u>Date Revised</u>	<u>Title Changed</u>
Licensing Program Analyst	7/6/83	10/21/93	10/21/93
Licensing Program Supervisor <u>Manager I</u>	7/6/83	10/21/93	--
Licensing Program Manager <u>II</u>	7/6/83	10/21/93	--
<u>Licensing Program Manager III</u>	_____	==	==

ccd/sks

STATE PERSONNEL BOARD

STAFF CALENDAR ITEMS FOR BOARD INFORMATION

RE: BOARD CALENDAR MARCH 8-9, 2005

500

(Cal 3/8-9/05)

MEMO TO: STATE PERSONNEL BOARD

FROM:

SUBJECT: Staff Calendar Items for Board Information

Staff has approved the following:

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(a) The Bureau of State Audits proposes to revise the Minimum Qualifications for the Auditor, Bureau of State Audits Series Specification to increase the candidate pool; revise alternative range 339; and abolish the class of Auditor, Bureau of State Audits which is no longer utilized.

State of California**MEMORANDUM**

TO: State Personnel Board DATE: March 8-9, 2005

FROM: Kathleen Spencer, Bureau of State Audits

REVIEWED BY: Jennifer Roche, State Personnel Board
Karen Lynch, Department of Personnel Administration
Josie Fernandez, Department of Personnel Administration

SUBJECT: Staff Calendar Item. Classification Changes, Bureau of State Audits.

SUMMARY OF ISSUES:

The Bureau of State Audits is proposing three specific changes to the Auditor, Bureau of State Audits (BSA) Specification. It is proposed that the Minimum Qualifications (MQs) for the Auditor Evaluator I, BSA be revised to reflect MQs that are relevant to our targeted candidate pool; that alternate range criteria 339 be revised so that the bureau can be competitive with other state agencies in recruiting candidates with Master's degrees; and to abolish the classification of Auditor, BSA which is no longer utilized.

BACKGROUND:

The Bureau is committed to recruiting and hiring the most qualified candidates for our Auditor Evaluator I (BSA) classification. Periodically, a review of the minimum qualifications is performed to ensure that the requirements are evolving along with the qualifications of our most qualified candidates. The Bureau has determined that some qualified candidates are being disqualified from the examination and is requesting some minor revisions to the MQs to rectify the situation.

Also, the Bureau is experiencing difficulties in recruiting and retaining persons who possess master's degrees. After comparing alternate range criteria and minimum qualifications with similar classifications within the state, the Bureau has determined that it is at a disadvantage in making competitive salary offers to graduate degree candidates.

RECOMMENDATIONS:

It is recommended that:

1. That the proposed revised specification for these changes as shown in this calendar be adopted.
2. That Alternate Range Criteria number 339 be amended as follows:

~~Established 5/4/93~~ Revised

Range A. This range shall apply to those individuals who do not meet the criteria for payment in Range B.

Range B. This range shall apply to persons who possess a master's degree; or who have satisfactorily completed the equivalent of 12 months of Auditor Evaluator I, Bureau of State Audits, Range A; or who have two years' auditing experience. (California state experience applied toward this pattern must include at least one year performing duties of a class equivalent to that of Auditor Evaluator I, Bureau of State Audits, Range A.

When the requirements for a particular criteria are met and upon recommendation of the appointing power, the employee shall receive a rate under the provisions of DPA Rule 599.676.

3. That the class of Auditor, Bureau of State Audits be abolished. (There are no incumbents in this classification and there are no persons who have a mandatory right of return to this classification.)

The staff of the Bureau of State Audits is excluded from collective bargaining and so no unions have been notified of this item.

Enclosure: (Proposed Specification)

APPROVAL

(Below To Be Completed by SPB Staff)

SPB Staff Signature:

Title:

Effective Date:

(SPB Staff: Send Original Approved Staff Item to DPA Pay Letter Coordinator, Susan Salata.

CALIFORNIA STATE PERSONNEL BOARD

SPECIFICATION

AUDITOR, BUREAU OF STATE AUDITS
 Series Specification
 (Established May 4, 1993)

SCOPE

This series specification describes ~~five~~ four Auditor classifications used within the Bureau of State Audits in the conduct, supervision, or management of the annual Single Audit of the State of California as well as statewide performance audits and program reviews of State organizations, local agencies, special districts, and school districts that receive State funds.

<u>Schem</u>	<u>Class</u>	
<u>Code</u>	<u>Code</u>	<u>Class</u>
JC75	4091	Auditor, Bureau of State Audits
JC73	4088	Auditor Evaluator I, Bureau of State Audits
JC74	4089	Auditor Evaluator II, Bureau of State Audits
JC76	4092	Senior Auditor Evaluator, Bureau of State Audits
JC78	4094	Principal Auditor, Bureau of State Audits

DEFINITION OF SERIES

Auditors within the Bureau of State Audits, in accordance with industry standards and governmental audit standards as promulgated by the Comptroller General of the United States, gather and document audit evidence; determine the highest and best source of evidence; observe and document agency procedures and practices; interview personnel at all levels of audited agencies; obtain relevant program information and statistical data through manual or computer-assisted techniques; develop relevant information through statistical sampling and quantitative analysis performed manually or by using various database and electronic spreadsheet software packages; prepare work papers to document work performed and to provide the basis for findings and recommendations; and prepare written reports. Positions in this series obtain and interpret relevant and authoritative criteria for the program or issues under audit to develop comparable criteria from authoritative methods and computerized databases and software packages; test data to verify its accuracy, completeness, and timeliness and develop possible causes of agency problems; draw conclusions and develop feasible and cost-effective recommendations concerning identified weaknesses or problems based on an objective and independent evaluation of evidence; assess the audited agency's compliance with relevant laws, regulations, and requirements; independently conduct quality control reviews of reports or other

materials used in audits; present audit-related information at meetings and conferences with the Bureau of State Audits and audited entities.

Auditors assigned to financial and compliance audits perform audit procedures to determine whether State, financial, and program-related information is presented in accordance with generally accepted accounting principles; participate in producing audited financial statements including all relevant disclosures; and provide an independent assessment of the State's compliance with applicable Federal laws and regulations.

ENTRY LEVEL

Entry into this series is typically at the Auditor Evaluator I, Bureau of State Audits, classification.

FACTORS AFFECTING POSITION ALLOCATION

Independence of actions and decisions; consequence of error; supervision received or exercised; complexity, variety, and sensitivity of assignments; and type of contacts.

DEFINITION OF LEVELS

~~AUDITOR, BUREAU OF STATE AUDITS~~

~~This is the recruiting, training, and development level of the series. Under supervision, incumbents assist in the planning, data gathering, and analytical tasks associated with audits. Incumbents may also assist in the completion of a segment of an audit.~~

AUDITOR EVALUATOR I, BUREAU OF STATE AUDITS

This is the recruiting, training, and development level of the series. Under supervision, incumbents assist in the planning, data gathering, and analytical tasks associated with audits. Incumbents may also assist in the completion of a segment of an audit.

AUDITOR EVALUATOR II, BUREAU OF STATE AUDITS

This is the journey level of the series. Under general supervision, incumbents participate in the planning, data gathering, and analytical tasks associated with audits. Incumbents also assist in the completion of a segment of an audit.

SENIOR AUDITOR EVALUATOR, BUREAU OF STATE AUDITS

This is the advanced specialist in the series. Under direction, incumbents are either responsible for the completion of a segment of an audit or an entire small audit. As they progress, they may complete one or more multiple audits, with teams of one to six team members. Incumbents provide lead direction or function as a team leader during a single assignment. Specialists at this level provide consultation on specific areas or program issues and may serve as a team member on complex audits.

PRINCIPAL AUDITOR, BUREAU OF STATE AUDITS

This is the supervisory and highest level in the series. Incumbents supervise one or more audits with teams of one to six staff members. Incumbents, under general direction, develop and interpret uniform policies, programs, and practices for the administration of the audit program and provide management advice to the Legislature and top-level administrative authorities within State departments. Incumbents also testify before legislative committees, respond to press calls, and represent the Bureau of State Audits at meetings of national, State, and professional organizations.

MINIMUM QUALIFICATIONS

ALL LEVELS:

Education: Equivalent to graduation from college. (Registration as a senior student in a recognized institution will admit applicants to the examination, but they must produce evidence of graduation or its equivalent before they can be considered eligible for appointment.)

~~AUDITOR, BUREAU OF STATE AUDITS~~Either I

~~Eligibility to take the examination for Certified Public Accountant as specified in the California Business and Professions Code, Section 5081.~~

Or II

~~Education: Equivalent to (1) a Master's Degree in Business or Accounting; (2) a master's degree in a related field that is strong in quantitative analysis with at least ten semester units of graduate course work in quantitative subjects such as statistics and economics; or (3) a graduate law degree and ten semester units of course work in quantitative subjects such as statistics and economics.~~

AUDITOR EVALUATOR I, BUREAU OF STATE AUDITS

Either I

Education: Equivalent to (1) a Master's Degree in Business, ~~or Accounting~~, Public Administration, or Public Policy; (2) a master's degree in a related field that is strong in quantitative analysis with at least ~~ten~~ nine semester units of ~~graduate~~ college level course work in quantitative subjects such as statistics and economics; or (3) a graduate law degree and ~~ten~~ nine semester units of college level course work in quantitative subjects such as statistics and economics.

Or II

Education: Equivalent to graduation from college with completion of a minimum of 39 semester units of business-related course work which shall include the following: six units of professional accounting courses, ~~or six units of economics courses~~, or six units of financial management; nine units of related ~~qualitative~~ quantitative subjects, such as mathematics or statistics; ~~six units in computer applications or information technology~~; and six units in written or oral communications. (Business-related course work in real estate, marketing, or human resource management may not be counted as part of the 39 total units.)

AUDITOR EVALUATOR II, BUREAU OF STATE AUDITS

Either I

Education: Either of the two educational levels described for the Auditor Evaluator I, Bureau of State Audits.

and

Experience: Thirty (30) months of professional experience in government, commercial, or public auditing in accordance with the "Government Auditing Standards" published by the Comptroller General of the United States. This experience must include work in at least two of the following types of audits: financial, performance, or compliance.

Or II

Experience: Six months of experience in the California state service performing duties at a level equivalent to an Auditor Evaluator I, Bureau of State Audits, Range B.

SENIOR AUDITOR EVALUATOR, BUREAU OF STATE AUDITS

Either I

Experience: Six months of experience in the California state service performing duties at a level equivalent to an Auditor Evaluator II, Bureau of State Audits.

Or II

Experience: Three years of professional experience in government, commercial, or public auditing in accordance with "Government Auditing Standards" published by the Comptroller General of the United States. This experience must include work in at least two of the following types of audits: financial, performance, or compliance.

PRINCIPAL AUDITOR, BUREAU OF STATE AUDITS

Either I

Experience: Two years of experience in the California state service performing duties at a level equivalent to a Senior Auditor Evaluator, Bureau of State Audits, Range B.

Or II

Experience: Broad and extensive (more than five years) professional auditing experience in government, commercial, or public auditing in accordance with "Government Auditing Standards" published by the Comptroller General of the United States, including at least two years of experience in the direction of a large, complex, independent, and comprehensive audit program. This experience must include experience with financial, performance, or compliance audits. (Experience in the California state service applied toward this requirement must be performing the duties of a class at a level of responsibility equivalent to a Senior Auditor Evaluator, Bureau of State Audits, Range B, for a period of at least two years.)

KNOWLEDGE AND ABILITIES

AUDITOR, BUREAU OF STATE AUDITS

~~Knowledge of: General accounting and auditing principles and procedures; principles and practices of organizational management including planning, organizing, accounting, auditing, and quantitative analysis methods; research and information gathering techniques; basic principles and practices of descriptive and inferential statistics.~~

~~Ability to:~~ Apply the required knowledge; review and analyze State and Federal laws, regulations, and program data; review and analyze accounting records; learn and apply "Government Auditing Standards" prescribed by the Federal Government and standards of the auditing profession; review management and other related controls over financial data; conduct effective interviews with auditee's staff at all levels; gain and maintain the confidence and cooperation of those contacted; analyze, organize, and synthesize a variety of information into supported audit findings and logical recommendations; effectively incorporate use of microcomputers in performing audit and investigative tasks; prepare clear, complete, and concise reports; communicate effectively.

AUDITOR EVALUATOR I, BUREAU OF STATE AUDITS

Knowledge of: General accounting and auditing principles and procedures; principles and practices of organizational management including planning, organizing, accounting, auditing, and quantitative analysis methods; research and information-gathering techniques; and basic principles and practices of descriptive and inferential statistics.

Ability to: Apply the required knowledge; review and analyze State and Federal laws, regulations, and program data; review and analyze accounting records; learn and apply "Government Auditing Standards" prescribed by the Federal Government and standards of the auditing profession; review management and other related controls over financial data; conduct effective interviews with auditee's staff at all levels; gain and maintain the confidence and cooperation of those contacted; analyze, organize, and synthesize a variety of information into supported audit findings and logical recommendations; effectively incorporate use of microcomputers in performing audit and investigative tasks; prepare clear, complete, and concise reports; and communicate effectively.

AUDITOR EVALUATOR II, BUREAU OF STATE AUDITS

Knowledge of: All of the above.

Ability to: All of the above, and apply the concepts of "Government Auditing Standards" as published by the Comptroller General of the United States.

SENIOR AUDITOR EVALUATOR, BUREAU OF STATE AUDITS

Knowledge of: All of the above, and functions, organization, and practices of California government, "Government Auditing Standards" as prescribed by the Federal Government, and standards of the profession; operations, procedures, and work standards of the office; legislative committee organization, structure, functions, and procedures; formal and informal aspects of the legislative process; and the operation and reporting of other State and Federal audit organizations.

Ability to: All of the above, and apply the required knowledge; clearly define audit objectives; develop approaches and methodologies to meet audit objectives; and identify controversial or sensitive issues affecting the audit.

PRINCIPAL AUDITOR, BUREAU OF STATE AUDITS

Knowledge of: All of the above, and the organization and practices of the Legislature and Executive Branch; principles, practices, and trends of public administration, organization, and management; techniques of organizing and motivating groups; program development and evaluation; methods of administrative problem solving; personnel management techniques and practices of supervision and staff development and training techniques; administrative goals and policies of the office including the Bureau's Equal Opportunity Program objectives; and a manager's role in the Equal Opportunity Program and the processes available to meet equal opportunity objectives.

Ability to: All of the above, and apply the required knowledge; plan, organize, and direct the work of multidisciplinary professional staff engaged in a variety of complex audits; establish and administer uniform policies and procedures; develop cooperative working relationships with representatives of all levels of government, the public, and the Legislative and Executive Branches; analyze complex problems and recommend effective courses of action; prepare, review, and edit reports; and effectively contribute to the Bureau's equal opportunity objectives.

SPECIAL REQUIREMENTS

ALL LEVELS:

Willingness to travel, work away from the headquarter's office, and work long and irregular hours.

ADDITIONAL DESIRABLE QUALIFICATIONS

ALL LEVELS:

Ability to use word processing and spreadsheet software.

PRINCIPAL AUDITOR, BUREAU OF STATE AUDITS

Possession of a valid certificate to practice as a Certified Public Accountant in California.

CLASS HISTORY

<u>Class</u>	<u>Date Established</u>	<u>Date Revised</u>	<u>Title Changed</u>
Auditor, Bureau of State Audits	5/4/93	5/5/99	—
Auditor Evaluator I, Bureau of State Audits	11/5/97	5/22/00*	5/5/99
Auditor Evaluator II, Bureau of State Audits	11/5/97	5/5/99	5/5/99
Senior Auditor Evaluator, Bureau of State Audits	5/4/93	5/5/99	5/5/99
Principal Auditor, Bureau of State Audits	5/4/93	5/5/99	--

* Note: This was approved as an SPB staff item.

ccd/sks